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The Commonwealth of Massachusetts

FIFTH ANNUAL REPORT

to the

JUSTICES OF THE

SUPREME JUDICIAL COURT: *Executive*

Secretary.



By the

EXECUTIVE SECRETARY

as of

June 30, 1961

The Honorables, The Chief Justice and Associate Justices of the Supreme Judicial Court
for the Commonwealth



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"It is essential to the preservation of the rights of every individual, his life, liberty, property, and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as free, impartial and independent as the lot of humanity will admit. It is, therefore, not only the best policy, but for the security of the rights of the people, and of every citizen, that the judges of the supreme judicial court should hold their offices as long as they behave themselves well; and that they have honorable salaries ascertained and established by standing laws."

Constitution of Massachusetts (Art. XXIX, Declaration of Rights).

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INTRODUCTION

1. The undersigned submits his fifth annual report, as of June 30, 1961. Having reached 70 years of age I have retired on July 31, 1961. The statistical reports on the work of the various courts will be prepared for publication as part of the report by my successor, Joseph K. Collins, Esquire. The report is thus in a sense a joint product.

2. As in earlier reports all opinions and recommendations are entirely my own, unless otherwise so stated specifically. In view of my retirement I must also state that Mr. Collins does not assume any responsibility for that part of the published report prepared by me.

COURT CONGESTION

3. It is with regret that again this year a substantial part of the report must be devoted to the unhappy subject of congestion in the superior court lists. During the period July, 1960, through June, 1961, the court had to get along as best it could and this was badly, without the use of district court judges, either for misdemeanor or motor tort sessions; no money was appropriated for expenses of these sessions. As was pointed out in last year's report, Par. 6, this in effect meant a reduction of about twenty per cent in the number of judges available to handle the superior court litigation, criminal and civil. There is given below a schedule showing as of April 1, 1961, the approximate time lag in the various counties between entry of a civil suit with claim of jury and its being reached for trial in normal course. In nearly all counties this has increased over that of a year ago. Trials of felonies were kept current as a result of concentrating on them at the criminal sittings, but at the expense of delay in reaching misdemeanors for trial and disposition. These fell behind throughout the state.

4. In May of this year the chief justice of the superior court felt obliged to make substantial sacrifices of the civil lists, both jury and jury-waived, in order to set up additional criminal sessions. In all, there were fifty weeks of criminal sittings in the twelve mainland counties during May and June. These sessions, of course, varied in length according to the size of the backlog of misdemeanors. They in fact had the desired result of bringing criminal lists up to a fairly current condition. Ordinarily any list of misdemeanor cases will consist mostly of cases appealed from the district courts; in many of these the defendant's object is rather to

procure a more lenient disposition than to try the case again, with or without a jury. In most of the cases the defendants have been admitted to bail. Thus, once a session opens for hearing misdemeanors, rapid progress in disposing of them can be expected. The crucial point in keeping misdemeanors current is ability to set up such sessions.

5. How drastic the cutting of civil sessions was is shown by the fact that during part of the two-month period of May and June, 1961, as few as four civil jury sessions were running in Suffolk county. Some nine or ten are needed to keep the jury list in this county from falling behind, and to accommodate the parties who desire trial by jury.

6. By means of the drastic concentration on the criminal lists the court applied a cardinal principle of judicial administration, that prompt trial of the criminal case comes first, if a choice has to be made. But we can be optimistic in expecting that this painful choice will not again be forced on the court. Better times are now in sight. The legislature in the 1961 session has appropriated \$62,000 for use of district court judges during the fiscal year, July 1, 1961, to June 30, 1962. While this is less than the appropriations for that purpose in the fiscal years 1957 and 1958, it will help to provide enough sessions for prompt trial and disposition of misdemeanors throughout the state. To what extent district court judges can be of assistance in the motor tort cases is problematical. However, we can now expect that during the next twelve months civil sessions presided over by the superior court judges themselves will not have to be denuded to provide desperately needed criminal sessions. The civil lists should therefore at least hold their own, and may possibly even recover some of the ground lost in the last two years. Note, in this connection, that in certain counties there is another and distinct problem involved in the catching-up of lost ground; this is the lack of sufficient courtrooms to handle extra sessions. East Cambridge is the most serious but not the only example of this defect in our judicial system.

7. In the same session the legislature has also, Acts of 1961, chapter 535, made permanent the power to use district court judges to hear misdemeanors in the superior court, and has extended the authority to use them in motor torts to September 1, 1966, all as recommended in the third report, as of June 30, 1959, of this office. It is pleasing to see that by passing this act and by making the appropriation mentioned above, the legislature has again recognized the sound theory that the administration of justice is a unit. All interventions of courts into the affairs of the inhabitants of the commonwealth are but parts of one whole, the administration of

justice in a civilized community governed by laws. No court should be sealed off from the others and there should be no "happy few" in the judiciary. The hermetically sealed court is a pernicious juridical heresy. We in Massachusetts have perhaps not given this matter of theory all the attention it deserves because of the historical fact that in actual practice in our state it has been only the superior court which has needed help. But we hear news of backlogs in appellate courts or district and municipal courts in other states. If for any reason one or more of our other courts should get bogged down, I would without hesitation recommend that additional legislation be passed enabling judges of the superior or any other court to act as judges in the troubled court in times of pressure and emergency. Compare also comments in Par. 21 of this report.

8. The following compilation shows as of April 1, 1961, the approximate time lag between entry and trial of civil jury cases in the various counties. This means the time after entry when a case not advanced or postponed for cause will be available for trial in the ordinary course. In some places there has been improvement between April and the writing of this report, but except as noted below the lag has increased over that of last year.

*Counties in Which Sittings Are Continuous
During the Court Season as of June 30, 1961*

BRISTOL

Taunton.....	16 months
Fall River.....	15 "
New Bedford.....	17 "

ESSEX

Salem.....	17 "
Lawrence.....	12 "
Newburyport.....	12 "

HAMPDEN

Springfield	
Motor torts.....	19 "
Others.....	11 "

MIDDLESEX

Cambridge.....	21 "
Lowell.....	15 "

NORFOLK

Dedham.....	17 "
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SUFFOLK

Boston.....	14 months
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WORCESTER

Fitchburg.....	17	"
Worcester.....	16	"

County With Nearly Continuous Sitting

PLYMOUTH

Brockton.....	23 months	
Plymouth.....	23	"

*Counties in Which Sittings Are Not Continuous
(Approximate Age of Most Recent Cases Reached
in Normal Course When Sittings Are Held)*

BARNSTABLE

Barnstable.....	14 months
-----------------	-----------

BERKSHIRE

Pittsfield.....	27	"
-----------------	----	---

DUKES COUNTY

Edgartown.....	7	"
----------------	---	---

FRANKLIN

Greenfield.....	16	"
-----------------	----	---

HAMPSHIRE

Northampton.....	13	"
------------------	----	---

NANTUCKET

Nantucket.....	7	"
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9. Of the above twenty-one shire towns, nineteen are in the mainland counties. Of these seventeen show an increase in the time lag over a year ago; in one of the other two the reduction is more apparent than real. The ground lost runs from about two months to a high of ten months. No further comment is needed.

10. It is expected that those district court judges called on to sit in the superior court will, as has been the case heretofore, be drawn mostly from the judges of the part-time district courts.

11. In dealing with the problems of keeping lists current, both civil and criminal, on the jury side, it must also be remembered that by no means all capital cases can be taken care of at regularly

scheduled criminal sittings. It is often necessary to set up a special sitting for a capital case and to assign a judge for it. In the year July, 1960, through June, 1961, there were nine such special sittings—not an unusual figure. One of these trials, Commonwealth v. Edgerly, at East Cambridge, took practically five weeks.

12. Another recent requirement which may from time to time cause rearrangement of lists and assignments on short notice is the panel of three judges to hear labor cases. During this past year there were only five of these; while none of them involved unusually lengthy hearings, all told they took nineteen and one-half days, or fifty-eight and one-half judge days.

13. In connection with the use of district court judges it is pleasing to report that of late years we have heard less of the thought that in some way or other second-rate justice is administered by them; comments from the trial bar made to the undersigned have been very complimentary. It is to be hoped that this unwarranted assumption will not be further heard from. It is worth noting that of the present membership of the superior court, seven were presiding judges of district or municipal courts and three were special justices before they were appointed to the superior court. No one would claim that all judges have equal talents; but the chief justice of the superior court is in a position to pick those who appear to have the best qualifications.

14. The “remanded” cases have been very helpful in keeping the court’s civil list from falling behind. They are discussed separately in Pars. 38 to 43.

15. The court has perforce continued to use auditors on about the same scale as last year, including references in motor tort cases. The heaviest burden of the expense of the references is borne by the city of Boston. The references are also of great help in keeping the civil trial lists, both jury and jury-waived, from getting completely out of control. Spot checks indicate that only around ten or eleven per cent of cases referred are ever retried to a jury, even though agreements for facts final are used sparingly. During the year the court amended Rule 86, so as to require specifically that subsidiary facts on which ultimate conclusions of the auditor are based be included in the report. This may have the good result of more cases being disposed of on motions for judgment on the report than the present handful in which this convenient procedure is used. In the nature of things there would not be many motor tort cases in which it could operate, but it seems clear to the undersigned that it must be susceptible of wider use in the contract and general tort cases.

16. While we do not have the full statistics as this part of the report is written, our information indicates that the total civil law entries from July 1, 1960, to June 30, 1961, in all probability will show an increase over the next prior twelve-month period. Thus the effort to afford prompt trials, particularly where jury is claimed, will be arduous for the indefinite future—as far ahead as we can see.

EXPENSES OF COURT OPERATIONS

17. Appendix I will show the total costs of operating the courts up to the last available figures. We have kept the same formula. Repeating what has been said before, these figures do not include the cost of pensions, contributory and non-contributory, in the counties, nor costs attributable to the courts for the new group health and insurance plans. We still accept the allocations to the courts for expenses of district attorneys' offices as made by the counties, although it is likely that a more minute breakdown would result in attributing part of these expenses to law enforcement rather than court administration.

18. There has been no change in the financial system, but the idea of having the state assume all the expenses for courts steadily gains in interest. Its ultimate adoption is certain. Local tax rates continue to rise. Agitation to eliminate from the local obligation items which do not belong there is bound to increase, and the most conspicuous example of an item which does not belong there is the court expense.

JUDICIAL PENSIONS

19. For several years, indeed, since its first year this office has strongly advocated allowing retiring judges to allocate part of their pension to their widows, on an actuarial basis. Bills were filed each year for this purpose. In the 1960 session, Acts of 1960, chapter 724, this reform was adopted. In addition it was extended to widows of judges dying before reaching seventy years and while still in service. In this case the pension is on a reduced basis, taking off one per cent from the standard pension for each year under the age of seventy of the deceased judge. This legislation while it takes care of widows does not provide for minor children. It is a source of gratification to see the measure advocated by us adopted. But as a grim reminder of how things sometimes happen, it took a particularly poignant sudden death of one of our well-known judges to drive home the need of the reform.

20. With this improvement now accomplished, I now make no specific recommendations about pensions of members of the judici-

ary. But the matter of including them in the contributory pension plan ought to be studied.

USE OF RETIRED JUDGES

21. In the last session of the legislature bills to permit the use of retired judges were again filed. While they attracted a good deal of interest they were not passed. It is the increasingly strong opinion of the undersigned that these bills or something similar to them would serve a very useful purpose and that continued efforts should be made to obtain passage of such legislation. There were occasions during the period covered by this report when the addition of even one retired judge for a few weeks or even a few days at a time would have been most helpful in both the supreme judicial and the superior courts. I have mentioned elsewhere, Par. 48, that the supreme judicial court had less than its full complement for just about a year, because of the vacancy resulting from the death of Judge Ronan. In fact, for September, October and November, 1960, the court was actually short two judges because of the serious sickness and consequent resignation of the late Judge Counihan. The troubles of the superior court lists have taken up a goodly part of this report. There are two retired judges of this court; if the chief justice of the superior court had been able to use their services even for periods of a few days the pressure under which his court operated would have been less severe.

22. The retired judge can be made a valuable insurance against temporary strains, and at very small cost to the public. Such temporary strains must be expected from time to time. Vacancies may not be filled promptly, sickness is bound to occur, cases which must in the public interest be decided promptly or not at all will come into the courts—all in all even a small reserve of judicial manpower, available on short notice or no notice at all is a highly desirable addition to our judicial system.

PHYSICAL FACILITIES

23. Some progress continues in the improvement of the physical facilities of the courts. Considerable new equipment is noted, such as files and office machines. Antiques are still to be found, but are becoming less common.

24. Among the items of progress I mention the following:

A. The new court house for the district court at Leominster has been in use since the fall of 1960. It has the second floor of a new brick building just outside the business center. This was built by the city. The police department is on the first floor and

the second is rented to the county for the court. The style is modernistic, with light colored finish and interior decorating. Ample light is provided. There are excellent offices for the judges, the clerk and the probation officer, a main court room, a juvenile court room, consultation rooms for counsel, modern toilet facilities. There is ample parking, including a municipal parking lot next door. New furniture of modern and functional type has been provided. It is a great improvement over the former inferior quarters. The city authorities and the Worcester county commissioners are to be congratulated. Speaking of Worcester county, the commissioners can perhaps now devote some attention to the quarters at Webster.

B. The loan for building the new court house at Stoughton has been authorized by the Legislature. By the time this is printed work should be well along. It will be a one-story building, made possible by the large lot of land available. By the fall of 1962 the present court room at Stoughton should be only an unpleasant memory.

C. As this is written the new wing of the probate-registry of deeds building at Dedham is nearing completion. This will provide another court room and more office space for this heavily used building.

D. There is welcome news from Plymouth. By Acts of 1961, chapter 336, an addition to and alterations in the superior-district court building have been authorized. The result will be an additional court room for the district court and a complete change in its quarters. The present badly cramped condition will be corrected.

E. The district court at Brockton has been provided with a new counter with built-in files.

F. The county of Hampden has been authorized, Acts of 1961, chapter 358, to buy the office building on State Street across from the present superior court and probate registry buildings. This was formerly used for the offices of a public utility, and can easily be adapted for needs of the courts in Springfield as they develop. It will afford insurance that difficult situations such as now exist at Cambridge, for example, will not arise in Springfield. This bill is a refreshing example of foresight.

G. While not involving major improvement, it is worthy of note that the redecorating of the rooms at Holyoke has continued. These quarters in the City Hall annex are now much more attractive and presentable than they were a few years back.

H. At Taunton a new tile floor and new lighting have been put in the probate court.

25. Having mentioned some successes, I must also mention some failures. The legislature did not see fit to authorize new facilities for the district court at Gloucester. These are miserable quarters and it is to be hoped that the local bar will continue its effort to replace them. No progress has been made in improving the generally poor situation at Pittsfield. I have written and spoken a great deal about this. For the present it seems that the bench, bar and those of the public unfortunate enough to have to go to the court house must endure the wretched facility as best they can.

26. I have mentioned these successes and failures together to illustrate the haphazard, planless way in which progress is made. Patience and refusal to become cynical and frustrated are needed. They show pointedly how undesirable our present court financial system is. While I have been able to report some progress, indeed even considerable progress, in the last four years, I must still regretfully state that the average of our court quarters is mediocre, to use the most charitable term. They range from very fine to very poor. Unfortunately there are too few of the former and too many of the latter.

27. Referring to the second report (as of June 30, 1958), Pars. 31-33, listing thirty improvements to court houses, the following have been accomplished or are now definitely provided for:

New building at Stoughton;

Remodelling of Athol court house;

Return of old third district court building at East Cambridge for court use;

Adequate provision for district court at Plymouth;

New court house at Westfield;

New court house at Leominster.

28. As usual, East Cambridge calls for special comment. The old third district court is now back in use. It has two usable court rooms; during the past court season these have been kept busy with jury sessions. They are not by any means ideal, but serve the purpose for want of anything better. Counting these makeshifts, there are nine court rooms available to the superior court, in three different buildings, five in the main superior court building, two in the probate-registry of deeds building, two in the old third district court. More than nine are needed when Middlesex business is being conducted normally; this means when the lists, both civil and criminal, are being kept current. Ten is a minimum to operate efficiently. Additional weeks for sittings in Lowell are helpful, but will not fully answer the need. Unlike some of the counties, Mid-

dlesex with its large area and many residential suburbs is still growing, and there has been steady trend upward in the entries in the superior court. A deficiency of even one in the number of available court rooms can only mean resort to temporary and more or less inconvenient methods, such as increasing use of masters and auditors, shifting some cases to Lowell where the parties would prefer Cambridge, occasionally borrowing a room in the regular third district court for a jury-waived session.

29. The clerk's office and the county offices in the superior court building are badly cramped for space. A recent incident of the escape of two prisoners awaiting trial from the East Cambridge jail and the killing of the master of the jail in the course of it has focused attention on the ancient jail across from the superior court building.

30. We are at an impasse in Cambridge. The quarters are hopelessly inadequate and there is no plan for their replacement or even remodelling. Parking is very poor and is getting worse. There appears to be a division of opinion as to whether a new building should be put up in Cambridge or the whole county activity be moved to some place near the geographical center of the county. Cogent arguments and objections can be advanced for and against both views, but while views are being exchanged, juries, lawyers, parties, witnesses continue to be paraded to the three buildings in good weather and bad, records are piling up, entries increase slowly but inexorably, the front steps still offer the best conference room, and the administration of justice staggers along distressfully. I must pessimistically report that I see no prospect of any improvement in the indefinite future. But if we are not going to have any adequate accommodations at East Cambridge, there is another way of meeting the situation. The court can now, and does to some extent, transfer cases to the Lowell lists. It would be possible to give it authority to transfer them to the adjacent counties of Suffolk, Essex, Norfolk and Worcester, where parties and counsel will not be unduly inconvenienced. This is no doubt cumbersome, and would involve some method of reimbursement for the expense of processing such transferred cases.

CIVIL PRACTICE AND PROCEDURE

31. The portions of last year's report dealing with matters of practice appear to have resulted in a surprising amount of interest. The report itself did not create this interest, but rather stimulated further a general feeling that our methods of practice admit of improvement. In this connection an important resolve has been passed by the legislature. This is Resolve of 1961, chapter 26,

directing the judicial council to study the feasibility of adopting rules similar to the Federal rules. This really involves a study of complete overhaul of our present rules. In view of this I refrain from making any present definite recommendations, with drafts of statutes. I limit my observations to pointing out features where I feel that we are behind the times.

32. We still use the ridiculous stock answers in law actions. Had it not been for the resolve just referred to, I would have renewed the suggestion for abolition of the answer as a requirement of practice. (See second report of executive secretary, as of June 30, 1958, Pars. 36-39.) If a zoning appeal case can be heard under General Laws, chapter 40A, section 21, with many complicated issues of fact and law apt to be involved, there is no reason why an answer is needed in the ordinary law suit.

33. Again, I recommend for consideration the abolition of the preferred case, leaving the order of trial to the discretion of the trial courts.

34. We note that the legislature had added one more preference to the already long list. See Acts of 1961, chapter 96, adding section 59E to chapter 231. This relates to proceedings to determine the validity of actions of housing or redevelopment authorities; at the request of any party it is to be advanced for speedy hearing. Doubtless these cases will be but few in number, and will be heard without jury.

35. Now that the subject of comprehensive overhaul of rules of practice has come up, I strongly urge the importation of the Federal rule 56 on motion for summary judgment, replacing our present relatively limited and weak statutes, General Laws, chapter 231, sections 59, 59A, 59B.

36. The matter of the extent of pre-trial disclosure is another highly important feature of the Federal rules. These are far in advance of our methods of interrogatories, depositions in limited instances, notices to admit facts and documents and, where held, pre-trial conferences. The theory underlying this that a law suit is an enlightened effort of intelligent persons to arrive at the truth and is not a test of the astuteness of mental athletes called lawyers is correct. But there are certain practical considerations. These pre-trial examinations or depositions take time. Important as they are, they are not trials before a deciding tribunal, but are steps in preparation for that trial.* But they necessarily take time of lawyers who must be paid unless they are intentionally working on a charit-

*Their value as a catalyst of ideas leading to settlement is no doubt also very high.

able retainer. Under the Federal jurisdiction most cases are expected to involve enough money to make it reasonable to spend this time; e.g., the minimum jurisdiction in the common diversity of citizenship case is now \$10,000. But necessarily there is no minimum in the state courts, and always one of the important factors of what a lawyer can charge is the amount in controversy. Also parties have something else to do beside devoting their lives to a law suit.* What might be a desirable step in a \$100,000 case, shortening a trial, simplifying issues, preventing tricky surprises, might be a hardship on counsel and parties in a \$1,000 case.

37. I again express the thought that in considering revisions of our rules two fundamental points should always be kept in mind:

1. The purpose of a law suit is to ascertain the truth and to apply sound rules of law to the facts thus found, and

2. law suits must be carried on by lawyers whose numbers are limited and whose time must be used as efficiently as possible to aid the courts in determining the truth and the correct rules of law to apply to it.

THE "REMANDED" CASES

38. The superior court has continued to make use of the "remanding" statute, General Laws, chapter 231, section 102C, to send cases to the lower courts for trial, where they appear to involve a controversy of less than \$1,000. The volume of the references has somewhat increased this year. With law entries in the superior court still increasing this is a valuable means of helping to keep civil dockets from bogging down. While statistics of the performance in the district courts will not be available until later, there is no doubt they will as in previous years continue to show an enormous number of settlements. The extent of retransfers will also show wide variations in different courts, for which there appears to be no ready explanation.

39. In the matter of procedure under this law the supreme judicial court has rendered an important decision, *Lubell v. First National Stores*, 1961 A. S., 351, decided on March 3, 1961. The court ruled that in district court trials of remanded cases the parties may present requests for rulings and may take cases to the appellate division on reports, just as in trials of other civil cases in the district and municipal courts.

40. Up to this decision the practice of the district courts had been not to receive requests for rulings at trials of the remanded

*About the most undesirable of all clients for a busy lawyer is the fellow who has nothing to do except follow his law suit. And court lists can be operated only by busy lawyers.

cases, but to let the loser simply ask for retransfer to the superior court. Before the Lubell case the undersigned had proposed two alternatives to deal with this situation. House 453 of 1961 would provide specifically for a report to the appellate division. House 452 would instead of this provide for a motion for summary judgment in retransferred cases, on affidavits; this proposal was based on Rule 56 of the Federal Rules of Civil Procedure. At the time the decision was rendered in *Lubell v. First National Stores* these bills had been heard by the committee on judiciary but no report of the committee had been made. We requested that no further consideration be given to them at this session and they have not been enacted.

41. We should now consider whether in view of the Lubell decision any further amendment is needed. It has been made clear that a party who feels that as a matter of law he must have a finding in his favor may take the case to the appellate division if the trial judge disagrees with him—and further appeal to the supreme judicial court is also possible. There is still a drawback, at least in theory. If the loser at the trial becomes the winner in the appellate division his opponent can still ask for retransfer to the superior court. But in practice these cases will be rare. Cases in which one party as matter of law is entitled to a verdict or finding are uncommon in motor torts, somewhat commoner in the general liability class and still commoner in contract. All told, however, they form but a small fraction of the total of all civil cases tried in the courts. There is also another practical economic aspect. If a case has been tried out on the evidence and appealed on the law parties and counsel usually have had enough of it; unless some matter of principle is involved they will ordinarily let it stop there, whatever they may think of the soundness of the decision and the intelligence of the judge who made it.

42. We have, of course, discussed this procedural matter informally with a number of trial lawyers. While no effort was made to take a poll, a substantial feeling was noted in favor of use of the motion for summary judgment. This perhaps is another manifestation of the relative unpopularity of the appellate division procedure and the consequent small use of it. For whatever the reason it never seems to have become popular with the trial bar. In recent years reports are perfected in hardly over one per cent of cases tried in the municipal and district courts.

43. From conversations with some of the judges and clerks since the time of the decision in *Lubell v. First National Stores* no rush to claim reports in the remanded cases has been noted. But the time, only since this March, is far too short to form any judgment. Therefore, I recommend that nothing further be done with General

Laws, chapter 231, section 102C, until there has been a longer time to study the effect of the Lubell case.

CRIMINAL PROCEDURE

MASSACHUSETTS DEFENDERS COMMITTEE AND DEFENSE OF INDIGENT ACCUSED PERSONS

44. As reported last year the legislature established the Massachusetts Defenders Committee, Acts of 1960, chapter 565, now General Laws, chapter 221, section 34D. As required by the statute the judicial council appointed a committee of eleven. The committee organized promptly and appointed Wilbur G. Hollingsworth, Esquire, as executive secretary. They have established offices in Boston and Springfield and have made arrangements to furnish counsel in other counties on a stand-by, per diem basis. By the statute the obligation to furnish counsel is correlated to the rules of the supreme judicial court, and rule 10 of the General Rules of Practice continues to govern this subject. Counsel is required, unless waived by the accused, in all felony cases in the superior court, where the defendant is unable to pay counsel himself. Thus far the committee's attorneys have been able to handle all the requirements under the law. About the only cases where other lawyers have to be assigned are those in which there is a conflict of interest between two or more defendants charged with the same crime.* But as a practical matter the trial bar has now been relieved of the obligation of furnishing free legal service in felony cases.

45. We have not, however, heard the last of representation of criminal defendants. Agitation to extend it as mandatory at hearings on probable cause in district courts, as well as at trials on the merits of felonies in these courts may be expected—or even for representation in the more serious misdemeanors. Also, there will be proposals that counsel must be furnished in all juvenile cases. Pressure for this can be expected to increase.

46. During the reporting period an incident occurred which brought in issue the extent of the power of a superior court judge to revoke a sentence where the defendant had already begun to serve it. The issue was presented to the supreme judicial court and decided in *District Attorney for the Northern District v. Superior Court*, 1961 A. S. 303. The sentences involved were to the Middlesex County House of Correction in May, 1960, after jury verdicts of guilty on charges arising out of illegal gambling activities. The judge at the same sitting revoked these sentences and imposed new

*It may also happen that an accused will ask for a particular attorney, who is willing to act for him. Of course, if counsel accepts that type of assignment it is his own private charity.

and less severe ones. The cases attracted much publicity and heated controversy and resulted in the law suits decided by the full bench, cited above; this upheld the power of the trial judge to reduce the sentences at the same sitting, even though the defendants had begun serving the sentences.

47. It will be noted that the decision is based on the power of the judge to act at the same sitting. The "sitting" was assimilated to the ancient "term" of court, abolished in 1897 (Acts of 1897, chapter 490, sections 1 and 2). So far, so good. But the "sitting" is not necessarily a uniform period of so many days or weeks when a judge or judges of the superior court are assigned by the chief justice of that court to hear criminal trials in a designated county. I recommend that the power to revoke and revise a sentence after a trial be made the same as the present power to revoke or revise after a plea of guilty or nolo, as now set forth in General Laws, chapter 278, section 29. The period allowed is sixty days after the imposition of the sentence. A draft of an amendment to carry out this purpose is proposed in Appendix II.*

COMMENTS ON THE VARIOUS COURTS

SUPREME JUDICIAL COURT

48. This year the full bench was again completely current with its work. All cases argued or submitted through June were decided by June 30. The court had to operate without its full complement during part of the year. The vacancy caused by the death of Judge James J. Ronan in December, 1959, was not filled until January 4, 1961; thus the court was short one judge for just over a year. In another part of this report, Par. 21, I also mention this in connection with recommendation for the use of retired judges. It will be noted that the decisions continue to include a large number of highly complex issues.

49. I must mention with regret the death on February 1, 1961, of Associate Justice Edward A. Counihan, Jr. He had resigned because of sickness only a few months before his death, thus closing a long career of distinguished service as a lawyer and judge. The vacancies resulting from his resignation and the death of Judge Ronan have been filled by the appointments of Associate Justice Paul G. Kirk, formerly of the superior court, and Associate Justice Jacob J. Spiegel, formerly special justice of the municipal court of the city of Boston.

*This section as now written offends against the esthetics of statutory drafting in that it includes two entirely separate subjects, viz., granting of new trials and revocation or revision of sentences. In the proposed draft I have separated the two subjects.

50. It is again necessary to call attention to the inadequacy of the court's appropriation to provide a fully adequate staff of clerical employees and law clerks under present day conditions. This subject has previously been referred to, see third report, as of June 30, 1959, Par. 56; since then the situation in general has become worse instead of better.

51. By Acts of 1961, chapter 86, the court has been given control over the times and places of its sittings. This bill was recommended and the draft of it prepared by this office. It does away with statutorily fixed sittings for the hearing of appellate arguments, leaving it to the court to establish sittings by rules. The court has now rewritten rule 26 of the Rules for the Regulation of Practice before the Full Court. There will be sittings in the western counties in September, 1961, as already scheduled, but not as a fixed program thereafter. The regular monthly Boston sittings from October through May will continue as heretofore. The new rule does not mean that the court will never sit at other times and places for hearing arguments before the full bench. In fact, a special sitting was held on June 20 this year in Boston to hear a case involving an election in one of the Essex county towns. If public convenience requires it, the court will always arrange sittings to meet the need.

52. I recommend an extension of the court's jurisdiction in homicide cases. This is partly inspired by the case of *Commonwealth v. Harrison*, 1961 A. S. 483. The statute dealing with "capital" cases before the full bench is General Laws, chapter 278, section 33E. It was put in its present form by Acts of 1939, chapter 341. It gives the court the power in a "capital" case to order "a new trial if satisfied that the verdict was against the law or the weight of the evidence, or because of newly discovered evidence, or for any other reason that justice may require." In the twenty-two years since this law was amended the court has reviewed all "capital" cases. A new trial was ordered in one, *Commonwealth v. Cox*, 327 Mass. 609.* There have been cases where a review was sought of a conviction for second degree murder on an indictment for first degree. In these cases the court has assumed without deciding that they are still "capital" cases, but found that the records did not warrant new trials. *Commonwealth v. Moore*, 323 Mass. 70, 78; *Commonwealth v. Kavalaukas*, 317 Mass. 453, 460; *Commonwealth v. Venuti*, 315 Mass. 255, 262; *Commonwealth v. Goldenberg*, 315 Mass. 26, 34.

53. It is now recommended by the undersigned that the power of the court be extended to permit it, in addition to ordering a new

*At the second trial of this case the defendant was found not guilty by reason of insanity.

trial, to reduce the degree of guilt or to order an acquittal by reason of insanity. I do not go so far as to recommend power to order a general verdict of not guilty. Such a power would in effect be making the court practically a second jury attempting to decide general guilt or innocence on a printed record, already disclaimed by the court itself as in *Commonwealth v. Bellino*, 320 Mass. 635. A finding of not guilty by reason of insanity involves a radically different decision, based on the established fact that the defendant did the killing for which he was indicted. It is also recommended that the review be granted specifically in the case of conviction for second degree as well as first degree but not for convictions of crimes of lesser seriousness. The proposed innovations would not change the scope of the review, namely, the court must be satisfied that as a result of an error of law or in the handling of the facts, or other reasons set out in the statute, the verdict is so wrong as to be a miscarriage of justice.

54. A proposed draft to carry out these purposes will be found in Appendix III.

55. The single justice session in Suffolk has continued at about the same volume as in recent years. The statistics will show a slight reduction in the number of petitions for admission to the bar. While the percentage of the reduction is small, it is to be noted that there was also a small reduction in the previous year. This is worthy of the serious consideration of those interested in the long-range future of the bar. It cannot be too strongly emphasized that the key to the successful administration of justice is the existence of a well educated bar adequate in numbers. No lawyer can live forever and we are justified in asking ourselves whether the next generation will be served by enough lawyers to perform the necessary obligations of the bar. We have for some time been confronted with the unpleasant fact that at least in a number of our counties competent trial lawyers are in short supply.

The statistics also will show a substantial increase both in the number of prerogative writs and in the number of equity proceedings brought in the single justice session.

SUPERIOR COURT

56. The court has continued to operate the special session for jury trials of contract cases in Boston. In the twelve months up to June 30, 1961, this session was held for 32 weeks. A total of 173 cases appeared on the lists for this session during this period. Of these, 84 were settled before a verdict, 87 were tried through to verdict and two are still pending. Several cases required trials of

four or more days; the longest took 11 days. The chief justice intends to continue this session in the future; this second year of experience indicates that there is a definite demand for it.

57. It is no surprise that the use of a law clerk at the Boston office has proved of great value. His services are in continuous demand. They fall into two broad divisions. He is able to check briefs submitted by counsel in jury-waived trials, verify and follow up citations of cases, summarize arguments. He is also frequently called on for quick help to judges hearing cases all over the state in passing on requested rulings or points to be made in a charge to a jury, or some important point of evidence. He may, for example, be asked to get the latest version of some statute in another state, or find out whether some decision is as broad as counsel has claimed, and telephone the information back to the judge. The service is not only of value to the judges but even more so to counsel in the cases. The court could well use an additional law clerk.

58. During the past year the court suffered the loss of two of its veteran and highly valued judges by death. Judge Vincent Brogna died on September 21, 1960, having served since 1934, and Judge David G. Nagle died September 23, 1960, after eleven years on the bench.

59. Judge Paul G. Kirk was appointed to the supreme judicial court. There was one vacancy at the beginning of the period. The four vacancies have been filled by the appointments of Judge Vincent R. Brogna (son of the late Judge Brogna), Judge Thomas J. Spring (formerly presiding judge in the Roxbury municipal court), Judge David A. Rose (formerly special justice in the Dorchester district court) and Judge Daniel J. O'Connell, Jr.

60. I recommend that some facility be afforded by which the probate courts may be able to help the superior court. I have earlier (first report) made a more sweeping recommendation that probate judges be authorized to sit in the superior court, with a reciprocal provision authorizing superior court judges to sit in probate courts. With continued use of district court judges in prospect these bills are not presently matters of necessity.* Also, in recent years various bills proposing complete or very extended concurrent equity jurisdiction in the probate courts have been filed. (None was filed in the session of this year, recently closed.) These bills suffer from the defect of extending the basically unsound idea of concurrent jurisdiction.

*As a further insurance against crises in probate courts it would be desirable to have authority for a superior court judge to function in probate courts in case of emergency. They have been lucky so far but are still vulnerable to sudden catastrophe.

61. While none of these bills have been acted on favorably, there is another method by which the probate courts may be of some help to the superior court and still share in the desirable equity jurisdiction. I recommend that it be made possible to transfer an equity case from the superior to the probate court. Approval of the chief justice of the superior court, of the administrative committee of the probate courts and of the judge or judges of probate of the county would be required. The action would be transferred for determination rather than referred only for trial and report.

62. The use of such a facility would presumably be more frequent in the smaller counties where superior court jury-waived sittings are short. While cases can be and often are transferred to Boston for trial this may not always be convenient to the parties. The use of a resident probate judge who can fit the case in to one of his lists may on occasion assure a prompt trial on the local scene. In the larger counties, to be specific, Suffolk, Middlesex, Worcester and Hampden, I would anticipate such use where the jury-waived list happens to get unusually clogged. The commonest cause of this would be the occurrence of a lengthy trial. So, while the actual number of trials subtracted from the superior court and added to the probate courts might not be impressive in itself, the use of the transfers at the right time could make the difference between speedy and slow justice, or keep some list from breaking down. As is well known to any trial lawyer, a jury-waived list is much more volatile and unpredictable than a jury list. Annexed as Appendix IV is a draft of a proposed bill.

63. It will be noted that this is limited to equity. If it later appears desirable there is no reason why it could not be extended to jury-waived cases on the law side.

Reimbursement Between Counties for Use of Court Stenographers

64. Attention is called to a needed amendment to adjust a statute relating to court cost to the declining value of the dollar. General Laws, chapter 221, section 90A, regulates reimbursement by one county to another for use of a salaried court stenographer. At present the county where he is used pays the employing county \$20 per day. This figure was established ten years ago, Acts of 1951, chapter 82. Obviously it is no longer realistic and should be changed to \$30. A bill for this purpose will be proposed for consideration at the next session of the legislature. Here is another example of the exasperating nature of our present system of payment for court expenses and the cumbersome nature of the adjustments resulting from it. See Appendix V for draft.

THE LAND COURT

65. The statistics for this year of this court will show for the first time entries of all types in excess of 5,000.

66. Law and science meet in the day-to-day administration of this important court. Its engineering department is a necessary feature. Not only must boundaries of land originally registered be fixed accurately for all time, but as such land is subdivided the boundaries of the subdivided lots must also be irrevocably fixed. There is simply no room for the slightest margin of error. Passage of time and adverse possession cannot cure blunders in the boundaries of registered land; in keeping with the fundamental theory of the registered title to land it is not subject to loss by prescription, General Laws, chapter 185, section 53. The happy phrase "more or less," so beloved by scriveners for generations is entirely out of place in registered land conveyancing. So the employees of this court, both technical and clerical, must be people of the highest accuracy and skill in the specialized work of the court. The post-registration proceedings are bound to increase as additional parcels are registered. For the indefinite future we can also anticipate a steady flow of petitions for original registration, fluctuating from year to year, but not coming to a stop. I cannot too strongly emphasize the need to keep this court adequately staffed by capable employees making it a career. To accomplish this it must be able to compete with other employers of such skilled help, both public and private. While the present situation of the court is undoubtedly better than a few years back, in my opinion it is not yet fully satisfactory. I urge that requests for appropriations to the court to carry on its activities be sympathetically received.

67. It will be noted that again this year there were no payments from the Assurance Fund.

PROBATE COURTS

68. During the reporting year the probate courts have been given much publicity, mostly unfavorable. At the root of this unpleasant phenomenon is the patronage dispensed by these courts. The most important items are the appointments of guardians ad litem and appraisers. Other items are appointments of fiduciaries, usually as the result of the interested parties refusing to agree; there are also investigators, who are generally paid by the counties, in contrast to other types of probate patronage in which the compensation is paid out of the estate involved. It goes without saying that persons unable to protect themselves ought to be represented in any proceedings to which they are parties. The most common need for the

appointment of a guardian ad litem will occur in petitions for allowance of accounts by fiduciaries, but it also occurs in a variety of others, e.g., petitions for license to sell or to compromise an adverse claim.

69. Whether we like it or not this patronage problem exists and its periodical airing in the public press causes harm to the administration of justice. It is a subject peculiarly inviting to a satirical pen or typewriter, and journalism does not lack able handlers of sarcasm and satire. I am not satisfied that the institution of the guardian ad litem appointed for each case as it arises is the most efficient or happiest solution of the problem of representing incompetents and unascertained persons on the scale now required in the probate courts, at least in the allowance of accounts. This whole matter should be studied. Consideration may well be given to whether a salaried public officer could be used instead; notice to him of all accounts involving incompetents could be required and he could be required to examine them and represent the incompetents. His salary could be reimbursed to the public in whole or in part by establishment of some fixed charge on the estate in which he is called on to act. This is, of course, only a very broad outline, and there are no doubt other methods worthy of consideration. As a result of a new rule, mentioned hereafter, Par. 73, we will soon be in possession of records and statistics from which the extent of the use of guardians ad litem can be determined.

70. Reference is now made to another source of patronage, the appraiser. I have previously discussed this, second report, June 30, 1958, Pars. 67-69. I repeat the recommendation made then that the institution be abolished. Unlike the guardian ad litem it serves no purpose whatsoever. The practice still continues in some of the counties of disregarding in part suggestions made by petitioners for appraisers by striking out one of the three suggestions in estates where three are required, i.e., where the estate may be over \$100,000 in gross value. There have been occurrences which prompt a renewal of the previous recommendation. One is the case of *Mulcahy v. Boynton*, 1960 A. S. 879; this was an adjudication of an appraiser's fee, cutting it drastically. In this instance the appraiser was appointed in disregard of the petitioner's suggestion. The other is the passage of Acts of 1961, chapter 469. This is a comprehensive rewriting of General Laws, chapter 65, sections 22, 25 and 26, dealing with the valuation of property for inheritance tax purposes. It takes effect January 1, 1962. Among other changes it requires the fiduciary to file an inventory directly with the tax office. Up to now this has been optional; if not filed directly the tax commissioner has procured copies of inventories filed in the

probate registries. No appraiser is required on the tax office inventory; the obligation to estimate values is put directly on the fiduciary, just as in the return required to the Bureau of Internal Revenue for estate tax purposes.*

71. Included herewith, as Appendix VI, is draft of a bill to abolish the use of appraisers on probate inventories; the new law requiring filing of an inventory in the tax office is fitted into this draft. If such a bill is passed a useless little bit of patronage, reflecting no credit on our judicial system, will be done away with. It sounds sordid, but it is true that the naming of an appraiser comes down to a question of who gets the trifling fee for the needless service, a friend of the petitioner, of the judge or the register. In estates it is just a gruesome little toll on the privilege of dying with more than enough to pay for the funeral, in guardianships just a little further cost to the misfortune of being a minor or an incompetent possessed of worldly goods. Needed judicial services are one thing, and should be regulated, empty ceremonies are something else, and should be abolished.

72. It will be noted that I do not recommend abolition of the inventory itself—merely the use of appraisers on it. We are used to having the inventory the starting point for accounts, artificial as this is. Where all heirs or legatees are fully competent they can settle their estates harmoniously among themselves and so avoid either an inventory or an account. Incompetents should be protected and where they are interested the filing of an inventory contributes to their protection.

73. The supreme judicial court for some time has had in mind the general subject of court patronage. This year it has taken action by adding rule 13 to the General Rules. Briefly, this rule requires clerks of court and registers of probate to keep a public record of appointments of guardians ad litem, investigators under General Laws, chapter 208, section 16, appraisers in estates over \$100,000; and administrators, trustees, guardians, conservators, receivers, if different from those prayed for in the petition or other pleading. In addition to the details to be entered by the clerk or register, the appointee is also required to file a statement of his compensation and expenses. Thus, there will be, as already mentioned, an accessible record of the appointments and the financial results to those offices designated in the rule. The rule applies to the supreme judicial, superior and probate courts; however, it is only in these last that an extensive number of such appointments are required.

*Professional appraisals of items like jewelry, art collections should be used to back up the valuation submitted by the fiduciary himself, but it is still his appraisal.

74. Since the last report the legislature has provided for a third judge of probate in Norfolk, and Honorable John J. Fox, formerly associate justice of the municipal court of the city of Boston, has been appointed.

THE DISTRICT COURTS

75. The district courts have continued to function successfully. As in past years the public is under obligation to the administrative committee and its chairman, Judge Kenneth L. Nash, for the efficient day-to-day operation of the system. As a matter of course local problems arise from time to time. The addition of four more full-time judges during the year has made the system more flexible. The important matter of covering civil cases throughout the whole state has been made easier. Again this year no scheduled session, whether for criminal or civil business, has had to be postponed even for a day because of sudden sickness. I think it is worth noting also that in spite of an unusually severe winter, including several heavy snowstorms, the courts managed to hold every session—quite an achievement on some occasions.

76. By Acts of 1961, chapter 375, the return day of civil writs has been changed from Saturday to Monday. The time for appearance and answer, three days in the district courts, two in the Boston municipal court, remains unchanged.

77. Two new experiments with juries of six in the district courts are to be tried.

78. By Acts of 1961, chapter 599, defendants in criminal cases in the third district court of Eastern Middlesex at Cambridge may elect to be tried in that court by a jury of six. By this election they waive any right of appeal to the superior court. Jurors are to come from the superior court jury pool. Procedure is to follow that of the superior court, and exceptions or other appellate proceedings go directly to the supreme judicial court. The statute makes provision for this jury session mandatory on the court. It is not possible to predict how much this new right will be claimed by defendants. Unfortunately no provision has been made for additional expenses. At present the Cambridge district court building is not equipped to accommodate jurors. If even a moderate use of the new right is claimed by defendants, it is easy to see that the court will need an additional assistant clerk and at least one more court officer. The court has already adopted the practice of informing all defendants who plead not guilty of their right to choose a trial by a jury of

six, waiving the right of appeal to the superior court. This experiment is for a three-year period, to July 1, 1964.

79. An entirely different experiment on the criminal side is to be tried in Worcester county. By Acts of 1961, chapter 527, defendants convicted of misdemeanors in any district court in Worcester county may appeal for a trial by a jury of six in the central district court at Worcester. Jurors are to be furnished from the superior court pool. Defendants who choose this appeal thereby waive the right of appeal to the superior court for trial either jury-waived or by a jury of twelve. Provision for this session by the central district court is mandatory. As in the Cambridge law no provision is made for additional expenses; however, the matter of housing such a session will present no trouble in Worcester. This experiment is also to be for three years, to July 1, 1964.

80. The authority to conduct civil trials in the Worcester central district court has been further extended, Acts of 1961, chapter 89, to July 1, 1964. This session has continued to be popular with the Worcester bar. It is difficult to determine to what extent the chance of trying before the jury of six is the determining factor in bringing cases in the district court or leaving them there rather than using the superior court.

81. The discussion in the last report about the office of special justice has stimulated much interest. At the request of this office the administrative committee circulated among the special justices a brief questionnaire, aimed at obtaining information directly from them: (a) the number of days of sitting, divided between the full-time and part-time courts, (b) their opinion as to the number of days on an average per week they could sit without prejudice to their private practice, and (c) how far they could conveniently travel.* Over eighty per cent of the judges, including nearly all who sit with any substantial frequency, have replied. From these replies it is possible to get a good idea of the scope and significance of their contributions to the routine operation of the system.

82. I will not weary the reader with lengthy schedules of statistics. The following will be enlightening. Not counting two of the judges who were appointed during the year, 66 judges sat during 1960 a total of 6,062 days, divided between full-time courts, 4,489 days, and part-time courts, 1,573 days. The idealized total number of days for a district court judge to sit, after deducting Sundays, holidays and the standard 30-day vacation, is 273. These 66 judges

*In connection with their travel it should be remembered that under our bizarre financial system no provision for reimbursement is made. And anyone who has had experience will soon find that the common rate of eight cents a mile is insufficient.

thus furnished practically the equivalent of 22 presiding judges to the whole system, making no allowances for sickness; about 16 judges to the full-time courts and six to the part-time. It is quite obvious that without the additional manpower furnished by these special justices the district court system could not function. The days of sitting varied greatly among the judges, from as little as four to a high of 195. It was noticeable that judges appointed to full-time courts sat quite infrequently in the part-time courts—26 of them reported no days at all in these courts. The reverse is not quite so true, as only 10 judges of part-time courts report no sittings in full-time courts. This is to be expected, because of the much greater demand in the larger full-time courts for simultaneous sessions.

83. The judges' opinions on their availability also vary widely, from one day a week to unlimited availability. Out of 68 only a minority, 24, report unlimited availability without inconvenience to their practice, and 20 report less than three days a week. All this indicates quite pointedly the basic weakness of the idea of relying so extensively on part-time judges who are expected to make their living as private practitioners and to serve as judges mainly for the honor, prestige and spirit of public service involved in it. It is utterly impossible even to hazard a guess how many special justices might be available on any given date, to serve without harm to their private work. One example will show this. A special justice who specializes in trial work, and there are a number of them, might be available at three o'clock in the afternoon to sit the next day, and become unavailable at four o'clock in the same afternoon because of a notice from a superior court list clerk to be ready for trial with witnesses the next morning. By five o'clock he might again be available as a result of settling his case. It should be mentioned that the special justices other than those who are invalids or of advanced age would, even at some inconvenience, respond to real calls of distress; that, however, is not within the spirit of the system, and should be expected to occur only on rare occasions. On the matter of travel, only a handful of judges reported unconditional willingness to travel any distance. While the answers varied widely, the commonest estimates were between 20 and 30 miles. A number simply specified a reasonable distance. One judge fixed the travel as an hour's drive, but did not say how far he would drive in an hour. I would suggest that simply as a rule of thumb a distance of about 30 miles each way be considered a fair average maximum in the spring, summer and fall, and somewhat less in the winter. From the geographical distribution of the judges the matter of distance should present little difficulty except in the

Provincetown, Nantucket and Edgartown courts if non-resident judges have to be called upon.

84. What should the next step be? Following up the discussion last year it is my recommendation that a bill be enacted for the gradual conversion of the special justice in the full-time courts into a full-time judge, up to a certain number, and thereafter looking toward their ultimate elimination. Two considerations will have to be kept in mind. The first is that a sufficient but not excessive number of permanent judges be provided to carry the load now borne by the presiding and special judges together. The second is that there must be preserved a convenient geographical distribution, so that as a result of the accidents of the order of deaths or retirement there will not be an undue concentration of judges residing in any one part of the state.

85. The 66 judges who have given their statistics for 1960 collectively took the burden of some 16 presiding judges in the full-time courts. In 1960 there were 44 full-time presiding judges. The 66 judges represent almost but not quite all of the special justices who sat to any extent in the full-time courts, and special justices of the municipal court of the city of Boston also have furnished a few days. Also, the figures quoted above do not take into account the incidence of sickness. Nor was there any occasion in 1960 to make allowance for judges, either full-time or part-time, sitting in the superior court. Another consideration is the recent trend toward offering parties the opportunity of trying before juries of six in the district courts, referred to earlier in this report, Pars. 77-80. While still in an experimental stage, it is clearly attracting a great deal of interest. Also, while the bulk of the work of the full-time judges would be in the full-time courts, and the hearing of civil cases in part-time courts, they would also be available to hear criminal cases in these courts; such occasions would unquestionably arise from time to time.

86. Taking all these factors into consideration, I recommend the gradual replacement of special justices in full-time courts by 22 full-time justices, to be called associate justices and to be paid slightly less than the presiding justice. Based on the differential in other courts, I suggest the salary of the associate be \$1,000 less than the presiding justice. I suggest a geographical distribution as follows: for Hampden, Hampshire, Franklin and Berkshire, three; for Essex, three; for Worcester, three; for Middlesex, five; for Suffolk, four; for Norfolk, two; for Plymouth, Bristol, Barnstable, Nantucket and Dukes County, two.

Annexed is a proposed draft, Appendix VII.

MUNICIPAL COURT OF THE CITY OF BOSTON

87. As this report is being written we have available the statistics for the municipal court of the city of Boston. In general the volume of civil and criminal cases has been running much the same as during the last few years. The court continues to handle a large volume of remanded cases and the statistics will again show a very large proportion finally disposed of in the municipal court, either by way of settlements, or by way of trials, with no subsequent retranfers.

This court had 24 petitions initiated under the Uniform Reciprocal Support Law, Chapter 273A, and received 62 from other states. Collections through the office were \$60,255, again an increase over the previous year. As has been pointed out in earlier reports almost all of this represents money which would otherwise be paid out by taxpayers here or in other states through welfare payments.

See Appendix VIII for details on caseload and performance of this court.

BOSTON JUVENILE COURT

88. The work of this specialized court continues with no changes of significance. The statistics will regrettably indicate a small increase in the total volume of its cases. Its quarters remain unchanged.

Respectfully submitted,

JOHN A. DALY,
Executive Secretary

301 New Court House
Boston, Massachusetts

APPENDIX I

COMPUTATION OF THE COSTS OF OPERATING THE COURTS

The following sources of information furnished the bases for determining the cost of administering and operating the various courts of the Commonwealth.

1. Public Document No. 29 (Annual Report on the statistics of county finances for the year ending December 31, 1960, Bureau of Accounts, Department of Corporations and Taxation).

2. House Bill No. 2940, 1961 Session (estimates of county receipts and expenditures for the year ending December 31, 1961).

3. Budget Recommendations of his Excellency, Governor John A. Volpe, for the fiscal year beginning July 1, 1961, and ending June 30, 1962.

4. Financial Report of the Comptroller of the Commonwealth for the fiscal year ending June 30, 1961.

5. City of Boston and County of Suffolk Budget Recommendations for the fiscal year 1961.

6. Summary of receipts and expenditures for the fiscal year ending December 31, 1960, developed from the records of the Auditing Department, City of Boston.

7. Records of Real Property Division of the City of Boston (material developed by personal contact and conference).

8. Records of County Commissioners and Treasurers examined.

The following schedules give the details of the cost of operating all the courts in the Commonwealth for the twelve-month period reported. There is an increase of over 4% above the prior period. The largest single increase was in the cost of operating the Probate Courts, in which the salaries of the judges and registers were increased by 1960 legislation.

NET COST OF COURTS PAID BY THE COMMONWEALTH

(For fiscal year ending June 30, 1961)

Supreme Judicial Court.....	\$ 321,951.42
Superior Court.....	793,126.77
Probate and Insolvency Courts.....	921,742.61
Land Court.....	297,350.90
Board of Bar Examiners.....	16,635.35
Judicial Council.....	65,379.86
Administrative Committee of the District Courts.....	16,000.00
Pensions (Retired Judges).....	113,910.66
Probation Service.....	561,610.16
Suffolk County Courthouse Maintenance (Acts of 1935, Chapter 474) ..	222,737.94
GRAND TOTAL.....	<u>\$3,330,445.67</u>

SUPREME JUDICIAL COURT

Justices' Salaries.....	\$143,416.58
Justices' Travel.....	3,000.00
Clerk's Salary.....	15,233.29
Clerical Assistance to Clerk.....	4,893.00
Clerical Assistance to Justices.....	73,501.58
Court Expenses.....	7,990.00
Court Officers and Messengers, Salaries.....	6,886.00
Clerk and Assistant Clerks for Suffolk County, Salaries.....	3,693.31
Social Law Library.....	3,500.00
Office of Executive Secretary.....	32,102.92
Reporter of Decisions, Salary.....	10,000.00
Reporter of Decisions, Clerical Assistance and Expenses.....	17,746.04
Total (Gross).....	<u>\$321,962.72</u>
Less—Receipts.....	<u>—11.30</u>
TOTAL (NET).....	<u>\$321,951.42</u>

SUPERIOR COURT

Justices' Salaries.....	\$710,627.89
Justices' Travel.....	43,331.68
Assistant Clerk (Suffolk County).....	1,500.00
Court Expenses.....	40,000.00
Total (Gross).....	<u>\$795,459.57</u>
Less—Receipts.....	<u>—2,332.80</u>
TOTAL (NET).....	<u>\$793,126.77</u>

PROBATE AND INSOLVENCY COURTS

Judges' Salaries (Additionalittings).....	\$ 4,010.00
Judges' Expenses (Additionalittings).....	396.11
Reimbursement for Official Bonds.....	490.50
Administrative Committee Expenses.....	500.00
	<hr/>
	\$ 5,396.61

BARNSTABLE COUNTY

Judge's Salary.....	\$ 13,185.00
Register's Salary.....	9,408.00
Assistant Register's Salary.....	6,922.00
Clerical Assistance to Register.....	15,055.75
	<hr/>
	\$ 44,570.75

BERKSHIRE COUNTY

Judge's Salary.....	\$ 13,185.00
Register's Salary.....	9,580.00
Assistant Register's Salary.....	7,101.00
Clerical Assistance to Register.....	20,590.50
	<hr/>
	\$ 50,456.50

BRISTOL COUNTY

Judges' Salaries (2).....	\$ 30,044.00
Register's Salary.....	11,137.00
Assistant Registers' Salaries (2).....	15,852.00
Clerical Assistance to Register.....	54,237.93
	<hr/>
	\$111,270.93

DUKES COUNTY

Judge's Salary.....	\$ 5,500.00
Register's Salary.....	4,950.00
Clerical Assistance to Register.....	3,573.00
	<hr/>
	\$ 14,023.00

ESSEX COUNTY

Judges' Salaries (2).....	\$ 31,392.00
Register's Salary.....	11,821.00
Assistant Registers' Salaries (3).....	24,502.00
Clerical Assistance to Register.....	62,251.90
	<hr/>
	\$129,966.90

FRANKLIN COUNTY

Judge's Salary.....	\$ 13,185.00
Register's Salary.....	9,408.00
Assistant Register's Salary.....	6,922.00
Clerical Assistance to Register.....	6,167.15
	<hr/>
	\$ 35,682.15

HAMPDEN COUNTY

Judges' Salaries (2).....	\$ 30,047.52
Register's Salary.....	11,137.68
Assistant Registers' Salaries (3).....	22,905.88
Clerical Assistance to Register.....	57,734.84
	<hr/>
	\$121,825.92

HAMPSHIRE COUNTY

Judge's Salary.....	\$ 13,185.00
Register's Salary.....	9,408.00
Assistant Register's Salary.....	6,922.00
Clerical Assistance to Register.....	7,782.50
	<hr/>
	\$ 37,297.50

MIDDLESEX COUNTY

Judges' Salaries (3).....	\$ 50,583.33
Register's Salary.....	12,865.47
Assistant Registers' Salaries (5).....	40,873.18
Clerical Assistance to Register.....	166,063.44
Salary Differential.....	1,031.68
	<hr/>
	\$271,417.10

NANTUCKET COUNTY

Judge's Salary.....	\$ 5,511.00
Register's Salary.....	4,950.00
Clerical Assistance to Register.....	3,573.00
	<hr/>
	\$ 14,034.00

NORFOLK COUNTY

Judges' Salaries (3).....	\$ 42,449.44
Register's Salary.....	12,327.00
Assistant Registers' Salaries (3).....	25,563.00
Clerical Assistance to Register.....	58,193.75
	<hr/>
	\$138,533.19

PLYMOUTH COUNTY

Judge's Salary.....	\$ 13,185.00
Register's Salary.....	9,588.00
Assistant Register's Salary.....	7,101.00
Clerical Assistance to Register.....	32,404.56
	<hr/>
	\$ 62,278.56

SUFFOLK COUNTY

Judges' Salaries (3).....	\$ 51,311.00
Register's Salary.....	12,865.00
Assistant and Deputy Assistant Registers' Salaries (7).....	39,366.67
Clerical Assistance to Register.....	197,064.93
	<hr/>
	\$300,607.60

WORCESTER COUNTY

Judges' Salaries (2).....	\$ 31,396.42
Register's Salary.....	11,822.69
Assistant Registers' Salaries (4).....	31,455.72
Clerical Assistance to Register.....	64,389.72
	<hr/>
	\$139,064.55

Total (Gross).....	\$1,476,425.26
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Less—Receipts.....	—554,682.65
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TOTAL (NET).....	\$921 742.61
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LAND COURT

Judges' and Statutory Officers' Salaries.....	\$ 71,250.00
Administration Expenses.....	303,199.81
Total (Gross).....	\$374,449.81
Less—Receipts.....	—77,098.91
Total (Net).....	\$297,350.90

BOARD OF BAR EXAMINERS

Administration Expenses.....	\$ 37,180.35
Less—Receipts.....	—20,545.00
Total (Net).....	\$ 16,635.35

PENSIONS

Retired Judges.....	\$113,910.66
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JUDICIAL COUNCIL

Administration Expenses.....	\$ 8,000.00
Massachusetts Defenders Committee.....	57,379.86
	\$ 65,379.86

ADMINISTRATIVE COMMITTEE OF DISTRICT COURTS

Administration Expenses.....	\$ 16,000.00
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PROBATION SERVICE

Office of Commissioner of Probation Salaries and Administration Expenses	\$255,616.33
Committee on Probation (Administration Expenses).....	520.00
	\$256,136.33
Superior Court*	
Probation Officers, Salaries.....	\$298,725.18
Office—Supervisor of Probation.....	6,748.65
	\$305,473.83
Total.....	\$561,610.16

SUFFOLK COUNTY COURTHOUSE

Maintenance (Acts of 1935, Chapter 474).....	\$222,737.94
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*(By Acts of 1956, Chapter 731, Section 29, compensation of probation officers appointed for the Superior Court is paid by the Commonwealth.)

SUFFOLK COUNTY
SUMMARY OF COURT EXPENDITURES

	<i>Gross</i>	<i>Net</i>
Supreme Judicial Court.....	\$ 99,525.71	\$ 97,483.21
Superior Court.....	2,248,518.63	2,118,162.22
Probate and Insolvency Court.....	82,497.92	82,436.92
Municipal Court of the City of Boston.....	1,001,337.02	529,839.93
Municipal Court of the Charlestown District.....	106,122.08	88,428.00
East Boston District Court.....	116,121.60	100,240.27
Municipal Court of the South Boston District.....	109,962.41	76,717.43
Municipal Court of the Dorchester District.....	186,405.44	151,950.79
Municipal Court of the Roxbury District.....	433,639.01	322,258.55
Municipal Court of the West Roxbury District.....	145,826.69	122,573.85
Municipal Court of the Brighton District.....	100,739.89	61,307.34
District Court of Chelsea.....	124,719.26	108,793.55
Boston Juvenile Court.....	138,812.97	138,642.97
Pemberton Square Courthouse.....	708,191.93	484,301.91
Social Law Library.....	2,000.00	2,000.00
Mental Health.....	53,350.14	49,983.44
Pensions and Annuities.....	116,118.01	116,118.01
Total.....	\$5,773,888.71	\$4,651,238.39

SUFFOLK COUNTY
CITY OF BOSTON
COUNTY COURT EXPENDITURES

SUPREME JUDICIAL COURT

Clerk's Office for Suffolk County		
Salaries and Expenses.....	\$ 99,525.71	
Less—Receipts.....	<u>—\$2,042.50</u>	
Total (Net).....		\$ 97,483.21

SUPERIOR COURT

General Expenses*		
Salaries and Expenses.....		\$122,663.14
Court Officers' Division**		
Salaries and Expenses.....		368,034.90
Criminal Expenses		
Clerks and Clerical Assistants, etc.		
Salaries and Expenses.....	\$287,269.02	
Jurors (Fees, etc.).....	112,530.76	
Witnesses (Fees, etc.).....	50,058.52	
District Attorney's Office.....	260,094.52	
Probation Department.....	85,448.33	
Total (Gross) Criminal.....	\$795,401.15	
Less—Receipts.....	<u>—\$38,414.75</u>	
Total (Net) Criminal.....		\$756,986.40
Civil Expenses		
Clerks and Clerical Assistants, etc.		
Salaries and Expenses.....	\$595,658.59	
Masters.....	17,144.25	
Auditors.....	127,984.64	
Commissioner.....	300.00	
Jurors (Fees, etc.).....	221,331.96	
Total (Gross) Civil.....	\$962,419.44	
Less—Receipts.....	<u>—\$91,941.63</u>	
Total (Net) Civil.....		\$870,477.78
Grand Total (Net) Superior Court.....		\$2,118,162.22

* (Stenographic and confidential messenger; also furnishes supplies, materials and equipment for both Civil and Criminal Sessions.)

** (Deputy Sheriffs and Court Officers; salaries, expenses, etc., for Civil and Criminal Sessions.)

PROBATE AND INSOLVENCY COURT

General Expenses		
Salaries and Expenses	\$82,497.92	
Less—Receipts		—\$61.00
Total (Net)		\$ 82,436.92

MUNICIPAL COURT OF THE CITY OF BOSTON

General Expenses		
Salaries and Expenses	\$1,001,337.02	
Less—Receipts		—\$471,497.09
Total (Net)		\$529,839.93

MUNICIPAL COURT OF THE CHARLESTOWN DISTRICT

General Expenses		
Salaries and Expenses	\$ 95,214.20	
Maintenance*	10,907.88	
Total (Gross)	\$ 106,122.08	
Less—Receipts		—\$17,694.08
Total (Net)		\$ 88,428.00

*(About one-half of building is used by Police Department, and Civil Defense; heating expense is paid by Police Department.)

EAST BOSTON DISTRICT COURT

General Expenses		
Salaries and Expenses	\$ 97,204.16	
Maintenance*	18,917.34	
Total (Gross)	\$ 116,121.60	
Less—Receipts		—\$15,881.33
Total (Net)		\$100,240.27

*(Building used 100% by Court; Police Department supplies heat; Operating Personnel charged to Boston Real Property Division.)

MUNICIPAL COURT OF THE SOUTH BOSTON DISTRICT

General Expenses		
Salaries and Expenses	\$ 95,262.87	
Maintenance*	14,699.54	
Total (Gross)	\$109,962.41	
Less—Receipts		—\$33,244.98
Total (Net)		\$ 76,717.43

*(Court uses about one-third of building.)

MUNICIPAL COURT OF THE DORCHESTER DISTRICT

General Expenses		
Salaries and Expenses	\$164,301.12	
Maintenance*	22,104.32	
Total (Gross)	\$ 186,405.44	
Less—Receipts		—\$ 34,454.65
Total (Net)		\$151,950.79

*(Building used 100% by Court.)

MUNICIPAL COURT OF THE ROXBURY DISTRICT

General Expenses		
Salaries and Expenses	\$394,174.33	
Maintenance*	39,464.68	
Total (Gross)	\$ 433,639.01	
Less—Receipts		—\$111,380.46
Total (Net)		\$322,258.55

*(Building used 100% by Court.)

MUNICIPAL COURT OF THE WEST ROXBURY DISTRICT

General Expenses

Salaries and Expenses.....	\$121,560.22	
Maintenance*.....	<u>24,266.47</u>	
Total (Gross).....	\$ 145,826.69	
Less—Receipts.....		<u>—\$ 23,252.84</u>
Total (Net).....		\$122,573.85

*(Building used 100% by Court.)

MUNICIPAL COURT OF THE BRIGHTON DISTRICT

General Expenses

Salaries and Expenses.....	\$ 75,843.46	
Maintenance*.....	<u>24,896.43</u>	
Total (Gross).....	\$ 100,739.89	
Less—Receipts.....		<u>—\$ 39,432.55</u>
Total (Net).....		\$ 61,307.34

*(75% of building is used by Court.)

DISTRICT COURT OF CHELSEA

General Expenses

Salaries and Expenses.....	\$109,432.82	
Maintenance*.....	<u>15,295.44</u>	
Total (Gross).....	\$ 124,719.26	
Less—Receipts.....		<u>—\$ 15,925.71</u>
Total (Net).....		\$108,793.55

*(About two-thirds of building is used by Court.)

BOSTON JUVENILE COURT

General Expenses

Salaries and Expenses.....	\$138,812.97	
Less—Receipts.....		<u>—\$ 170.00</u>
Total (Net).....		\$138,642.97

PEMBERTON SQUARE COURTHOUSE

Maintenance

Salaries and Expenses.....	\$708,191.93	
Less—Statutory share of Commonwealth and telephone commissions.....		<u>—\$223,890.02</u>
Total (Net).....		\$484,301.91

SOCIAL LAW LIBRARY

General Expenses.....	\$ 2,000.00
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MENTAL HEALTH

General Expenses

Salaries and Expenses.....	\$ 53,350.14	
Less—Receipts.....		<u>—\$ 3,366.70</u>
Total (Net).....		\$ 49,983.44

PENSIONS AND ANNUITIES

General Expenses*.....	\$116,118.01
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*(This represents annual payment to non-contributing members charged to Suffolk County for Judiciary, etc.)

BARNSTABLE

COUNTY COURT EXPENDITURES

Clerk of Courts			
Salaries and Expenses.	\$ 20,047.76		
Probate Court and Registry			
Salaries and Expenses.	6,454.56		
Law Libraries			
Salaries and Expenses.	5,287.48		
Superior Court			
<i>Criminal</i>			
Court Officers and Stenographers.....	\$ 5,852.00		
Probation Department	3,335.28		
Jurors (Fees, etc.)....	10,670.98		
Witnesses (Fees, etc.)..	3,952.05		
District Attorney's Office.....	4,443.65		
Misc. Expenses.....	<u>3,238.56</u>		
	31,492.52		
<i>Civil</i>			
(Including Supreme Judicial and Land Cts.)			
Court Officers and Stenographers.....	4,960.00		
Jurors (Fees, etc.)....	6,555.52		
Auditors.....	2,992.50		
Masters.....	4,470.75		
Miscellaneous Expenses	<u>669.76</u>		
	19,648.53		
District Courts			
Salaries and Expenses.	100,557.79		
(Includes courthouse rentals)			
Courthouse Maintenance and Operation	29,103.29		
Courthouse Bonded Debt Int. paid 1960.	<u>6,510.00</u>		
Total (Gross).....	\$219,101.93		
Less—Receipts.....		—\$42,482.35	
Total (Net).....			\$176,619.58

BERKSHIRE

COUNTY COURT EXPENDITURES

Clerk of Courts	
Salaries and Expenses.	\$ 21,178.02
Probate Court and Registry	
Salaries and Expenses.	5,537.30
Law Libraries	
Salaries and Expenses.	8,385.92
Superior Court	
<i>Criminal</i>	
Court Officers and Stenographers.....	\$14,351.51
Probation Department	4,762.98
Jurors (Fees, etc.)....	32,261.01
Witnesses (Fees, etc.)..	8,972.65
District Attorney's Office.....	2,393.81
Miscellaneous Expenses	<u>1,688.50</u>
	64,430.46

<i>Civil</i>			
(Includes Supreme Judicial and Land Cts.)			
Court Officers and			
Stenographers.....	\$	6,712.00	
Jurors (Fees, etc.)....		17,266.85	
Auditors.....		8,227.05	
Masters.....		1,821.90	
Referees.....		1,654.34	
Miscellaneous Expenses		<u>950.11</u>	
			36,632.25
District Courts			
Salaries and Expenses.			194,775.16
(Includes Courthouse rentals)			
Courthouse Maintenance and Operation		<u>20,483.49</u>	
Total (Gross).....			\$351,422.60
Less—Receipts.....			<u>—\$87,437.64</u>
Total (Net).....			\$263,984.96

BRISTOL

COUNTY COURT EXPENDITURES

Clerk of Courts			
Salaries and Expenses.	\$	84,761.60	
Probate Court and			
Registry			
Salaries and Expenses.		20,408.12	
Law Libraries			
Salaries and Expenses.		28,026.64	
Superior Court			
<i>Criminal</i>			
Court Officers and			
Stenographers.....	\$18,951.19		
Probation Department	17,544.61		
Jurors (Fees, etc.)....	39,614.50		
Witnesses (Fees, etc.)..	7,048.25		
District Attorney's			
Office.....	17,765.75		
Miscellaneous Expenses	<u>4,345.61</u>		
			105,269.91
<i>Civil</i>			
(Includes Supreme Judicial and Land Cts.)			
Court Officers and			
Stenographers.....	38,523.96		
Jurors (Fees, etc.)....	59,066.59		
Auditors.....	10,464.75		
Masters.....	6,239.25		
Miscellaneous Expenses	<u>1,730.93</u>		
			116,025.48
District Courts			
Salaries and Expenses.			352,768.57
(Includes courthouse rentals)			
Courthouse Maintenance and Operation		<u>164,209.57</u>	
Courthouse Bonded Debt Int. paid 1960		<u>7,025.00</u>	
Total (Gross).....			\$878,494.89
Less—Receipts.....			<u>—\$145,475.26</u>
Total (Net).....			\$733,019.63

DUKES COUNTY

COUNTY COURT EXPENDITURES

Clerk of Courts			
Salaries and Expenses.	\$	7,259.66	
Probate Court and			
Registry			
Salaries and Expenses.		1,045.94	
Law Libraries			
Salaries and Expenses.		799.18	
Superior Court			
<i>Criminal</i>			
Court Officers and			
Stenographers.....	\$1,028.00		
Jurors (Fees, etc.)....	2,265.65		
Witnesses (Fees, etc.)..	103.05		
District Attorney's			
Office.....	216.24		
Miscellaneous Expenses	856.50		
		4,469.44	
<i>Civil</i>			
(Includes Supreme Ju-			
dicial and Land Cts.)			
Court Officers and			
Stenographers.....	432.00		
Jurors (Fees, etc.)....	318.40		
Auditors.....	216.00		
Masters.....	130.50		
Miscellaneous Expenses	57.86		
		1,154.76	
District Courts			
Salaries and Expenses.		16,785.03	
(Includes Courthouse			
rentals)			
Courthouse Mainte-			
nance and Operation		3,691.70	
Courthouse Bonded			
Debt Int. paid 1960.		5,390.00	
Total (Gross).....		\$40,595.71	
Less—Receipts.....			-\$3,011.32
Total (Net).....			\$37,584.39

ESSEX

COUNTY COURT EXPENDITURES

Clerk of Courts		
Salaries and Expenses.	\$125,335.89	
Probate Court and		
Registry		
Salaries and Expenses.	35,151.22	
Law Libraries		
Salaries and Expenses.	26,241.63	
Superior Court		
<i>Criminal</i>		
Court Officers and		
Stenographers.....	\$18,738.17	
Probation Department	17,477.94	
Jurors (Fees, etc.)....	35,905.67	
Witnesses (Fees, etc.)..	8,668.20	
Transcripts, Process,		
Extradition.....	6,682.42	
District Attorney's		
Office.....	22,428.50	
Miscellaneous Expenses	2,696.53	
	112,697.43	

Civil

(Includes Supreme Judicial and Land Cts.)

Court Officers and

Stenographers.....	\$47,075.36
Jurors (Fees, etc.)....	97,964.58
Auditors.....	36,434.20
Masters.....	8,582.64
Commissioner.....	1,755.00
Miscellaneous Expenses	<u>3,321.76</u>

195,133.54

District Courts

Salaries and Expenses.	564,896.06
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(Includes Courthouse rentals)

Courthouse Maintenance and Operation	149,334.25
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Courthouse Bonded Debt Int. paid 1960	<u>5,850.00</u>
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Total (Gross).....	\$1,214,640.02
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Less—Receipts.....	<u>-\$163,771.64</u>
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Total (Net).....	\$1,050,868.38
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FRANKLIN

COUNTY COURT EXPENDITURES

Clerk of Courts Salaries and Expenses.	\$22,364.21
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Probate Court and

Registry Salaries and Expenses.	2,717.59
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Law Libraries Salaries and Expenses.	8,087.42
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Superior Court

Criminal

Court Officers and

Stenographers.....	\$1,287.64
Probation Department	1,065.94
Jurors (Fees, etc.)....	4,591.40
Witnesses (Fees, etc.)..	634.15
District Attorney's Office.....	1,588.87
Miscellaneous Expenses	<u>1,934.26</u>

11,102.26

Civil

(Includes Supreme Judicial and Land Cts.)

Court Officers and

Stenographers.....	5,701.01
Jurors (Fees, etc.)....	12,364.82
Auditors.....	364.50
Masters.....	913.50
Miscellaneous Expenses	<u>1,413.76</u>

20,757.59

District Courts

Salaries and Expenses.	52,088.36
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(Includes Courthouse rentals)

Courthouse Maintenance and Operation	<u>12,231.50</u>
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Total (Gross).....	\$129,348.93
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Less—Receipts.....	<u>-\$17,718.59</u>
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Total (Net).....	\$111,630.34
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HAMPDEN

COUNTY COURT EXPENDITURES

Clerk of Courts		
Salaries and Expenses.	\$66,150.06	
Probate Court and Registry		
Salaries and Expenses.	26,461.31	
Law Libraries		
Salaries and Expenses.	22,154.61	
Superior Court		
<i>Criminal</i>		
Court Officers and Stenographers.....	\$19,593.94	
Probation Department	9,093.24	
Jurors (Fees, etc.)....	21,221.10	
Witnesses (Fees, etc.)..	9,115.60	
District Attorney's Office.....	5,769.51	
Miscellaneous Expenses	7,543.99	
	<u>72,337.38</u>	
<i>Civil</i>		
(Includes Supreme Judicial and Land Cts.)		
Court Officers and Stenographers.....	63,002.64	
Jurors (Fees, etc.)....	102,277.63	
Auditors.....	13,822.05	
Masters.....	8,419.45	
Miscellaneous Expenses	823.94	
	<u>188,354.71</u>	
District Courts		
Salaries and Expenses.	460,049.04	
(Includes Courthouse rentals)		
Courthouse Maintenance and Operation..	91,164.38	
Courthouse Bonded Debt Int. paid 1960	650.00	
	<u>\$927,312.49</u>	
Total (Gross).....		\$927,312.49
Less—Receipts.....		<u>—\$144,510.07</u>
Total (Net).....		\$782,802.42

HAMPSHIRE

COUNTY COURT EXPENDITURES

Clerk of Courts	
Salaries and Expenses.	\$22,975.42
Probate Court and Registry	
Salaries and Expenses.	7,443.06
Law Libraries	
Salaries and Expenses.	7,303.66
Superior Court	
<i>Criminal</i>	
Court Officers and Stenographers.....	\$2,780.00
Probation Department	1,410.08
Jurors (Fees, etc.)....	7,497.53
Witnesses (Fees, etc.)..	2,452.90
District Attorney's Office.....	1,722.07
Miscellaneous Expenses	2,901.19
	<u>18,763.77</u>

Civil

(Includes Supreme Judicial and Land Cts.)

Court Officers and

Stenographers..... \$5,672.24

Jurors (Fees, etc.).... 15,826.79

Auditors..... 868.50

Masters..... 2,945.25

Miscellaneous Expenses 1,991.88

27,304.66

District Courts

Salaries and Expenses.
(Includes Courthouse
rentals)

93,286.36

Courthouse Maintenance and Operation

16,572.75

Total (Gross).....

\$193,649.68

Less—Receipts.....

—\$26,355.81

Total (Net).....

\$167,293.87

MIDDLESEX

COUNTY COURT EXPENDITURES

Clerk of Courts

Salaries and Expenses.

\$279,255.96

Probate Court and

Registry

Salaries and Expenses.

61,841.84

Law Libraries

Salaries and Expenses.

44,379.27

Superior Court

Criminal

Court Officers and

Stenographers..... \$99,112.06

Probation Department 44,921.99

Jurors (Fees, etc.).... 136,548.05

Witnesses (Fees, etc.).. 38,068.30

District Attorney's

Office..... 78,156.33

Miscellaneous Expenses 20,962.04

417,768.77

Civil

(Includes Supreme Judicial and Land Cts.)

Court Officers and

Stenographers..... 155,426.97

Jurors (Fees, etc.).... 161,480.71

Auditors..... 80,899.02

Masters..... 15,350.25

Miscellaneous Expenses 3,217.16

416,374.11

District Courts

Salaries and Expenses.
(Includes Courthouse
rentals)

1,362,760.24

Courthouse Maintenance and Operation

329,144.30

Total (Gross).....

\$2,911,524.49

Less—Receipts.....

—\$357,730.24

Total (Net).....

\$2,553,794.25

NANTUCKET

COUNTY COURT EXPENDITURES

Clerk of Courts			
Salaries and Expenses.	\$3,800.00		
Probate Court and			
Registry			
Salaries and Expenses.	60.00		
Law Libraries			
Salaries and Expenses.	209.43		
Superior Court*			
<i>Criminal and Civil</i>			
Grand Jury.....	\$375.10		
Probation Department	142.67		
Trial Jury.....	932.20		
Stenographer.....	256.95		
Sheriff and Deputies..	628.65		
Witnesses.....	659.73		
Rent.....	120.00		
Miscellaneous Expenses	295.63		
	<hr/>		
	3,410.93		
District Courts			
Salaries and Expenses.	12,831.68		
(Includes Courthouse			
rentals)			
Courthouse Mainte-			
nance and Operation	1,212.59		
	<hr/>		
Total (Gross).....	\$21,524.63		
Less—Receipts.....		-\$2,214.66	
		<hr/>	
Total (Net).....			\$19,309.97

*(No expenditures for Auditors, Masters, etc. Civil and criminal expenditures not separated.)

NORFOLK

COUNTY COURT EXPENDITURES

Clerk of Courts		
Salaries and Expenses.	\$63,635.48	
Probate Court and		
Registry		
Salaries and Expenses.	44,516.29	
Law Libraries		
Salaries and Expenses.	6,036.83	
Superior Court		
<i>Criminal</i>		
Court Officers and		
Stenographers.....	\$18,816.68	
Probation Department	14,423.97	
Jurors (Fees, etc.)....	51,583.63	
Witnesses (Fees, etc.)..	17,544.05	
District Attorney's		
Office.....	14,821.03	
Miscellaneous Expenses	1,019.93	
	<hr/>	
	118,209.29	
<i>Civil</i>		
(Includes Supreme Ju-		
dicial and Land Cts.)		
Court Officers and		
Stenographers.....	26,655.93	
Jurors (Fees, etc.)....	40,308.72	
Auditors.....	40,586.75	
Masters.....	3,298.00	
Miscellaneous Expenses	1,451.57	
	<hr/>	
	112,300.47	

District Courts			
Salaries and Expenses.	528,383.86		
(Includes Courthouse rentals)			
Courthouse Maintenance and Operation	160,708.80		
Courthouse Bonded Debt Int. paid 1960	10,000.00		
Total (Gross).....	\$1,043,791.02		
Less—Receipts.....		—\$157,109.88	
Total (Net).....			\$886,681.14

PLYMOUTH

COUNTY COURT EXPENDITURES

Clerk of Courts			
Salaries and Expenses.	\$57,348.88		
Probate Court and Registry			
Salaries and Expenses.	60,722.51		
Law Libraries			
Salaries and Expenses.	8,184.46		
Superior Court			
<i>Criminal</i>			
Court Officers and Stenographers.....	\$13,299.45		
Probation Department	13,923.85		
Jurors (Fees, etc.)....	39,060.42		
Witnesses (Fees, etc.)..	8,519.20		
District Attorney's Office.....	8,872.27		
Miscellaneous Expenses	3,066.27		
		86,741.46	
<i>Civil</i>			
(Includes Supreme Judicial and Land Cts.)			
Court Officers and Stenographers.....	19,075.46		
Jurors (Fees, etc.)....	28,526.80		
Auditors.....	15,045.00		
Masters.....	3,307.50		
Miscellaneous Expenses	2,348.20		
		68,302.96	
District Courts			
Salaries and Expenses.	268,024.69		
(Includes Courthouse rentals)			
Courthouse Maintenance and Operation..	64,545.76		
Total (Gross).....	\$613,870.72		
Less—Receipts.....		—\$80,196.12	
Total (Net).....			\$533,674.60

WORCESTER

COUNTY COURT EXPENDITURES

Clerk of Courts	
Salaries and Expenses.	\$159,708.72
Probate Court and Registry	
Salaries and Expenses.	16,765.65
Law Libraries	
Salaries and Expenses.	34,306.22

Superior Court

Criminal

Court Officers and

Stenographers..... \$30,820.59

Probation Department 18,363.00

Jurors (Fees, etc.).... 55,705.10

Witnesses (Fees, etc.).. 17,096.77

District Attorney's

Office..... 20,130.67

Miscellaneous Expenses 8,861.87

150,978.00

Civil

(Includes Supreme Judicial and Land Cts.)

Court Officers and

Stenographers..... 74,716.42

Jurors (Fees, etc.).... 125,080.08

Auditors..... 56,100.33

Masters..... 632.25

Miscellaneous Expenses 4,556.42

261,085.50

District Courts

Salaries and Expenses.

561,355.24

(Includes Courthouse rentals)

Courthouse Maintenance and Operation

178,259.76

Courthouse Bonded

Debt Int. paid 1960

43,910.00

Total (Gross).....

\$1,406,369.09

Less—Receipts.....

—\$184,393.67

Total (Net).....

\$1,221,975.42

SUMMARY OF COSTS OF ADMINISTERING AND OPERATING ALL COURTS IN THE COMMONWEALTH OF MASSACHUSETTS

	<i>Gross</i>	<i>Net</i>
Commonwealth of Massachusetts.....	\$ 3,985,116.33	\$ 3,330,445.67
Barnstable.....	219,101.93	176,619.58
Berkshire.....	351,422.60	263,984.96
Bristol.....	878,494.89	733,019.63
Dukes County.....	40,595.71	37,584.39
Essex.....	1,214,640.02	1,050,868.38
Franklin.....	129,348.93	111,630.34
Hampden.....	927,312.49	782,802.42
Hampshire.....	193,649.68	167,293.87
Middlesex.....	2,911,524.49	2,553,794.25
Nantucket.....	21,524.63	19,309.97
Norfolk.....	1,043,791.02	886,681.14
Plymouth.....	613,870.72	533,674.60
Suffolk.....	5,773,888.71	4,651,238.39
Worcester.....	1,406,369.09	1,221,975.42
	<u>\$19,710,651.24</u>	<u>\$16,520,923.01</u>
Commitments*.....		359,234.05
Total.....		<u>\$16,880,157.06</u>

*(Total shown does not include Suffolk County. A portion of the expense attendant to commitments is a proper court expense, but to determine the actual judicial cost would require an examination of each and every voucher submitted for payment to the county treasurers in connection with commitments.)

APPENDIX II

AN ACT TO EXTEND THE POWER OF THE SUPERIOR COURT
TO REVOKE OR REVISE SENTENCES

Be it enacted, etc.

Section 1. Chapter two hundred and seventy-eight of the General Laws is hereby amended by striking out the comma after the words "as the court shall order" in the first sentence of section twenty-nine as most recently amended by Acts of 1957, chapter three hundred and two and inserting a period in place thereof, and by striking out the following words in the first sentence, "and said Court may within sixty days after a sentence is imposed, if it appears to the court that justice has not been or cannot be done, and upon such terms or conditions as the court shall order, revise or revoke a sentence imposed without trial after a plea of guilty or nolo contendere, and in the event of revocation permit the withdrawal of the plea upon which the sentence was imposed," so that section twenty-nine shall read as follows:

Section 29. The superior court may, at the sitting in which a complaint or indictment is tried, or within one year thereafter, upon motion in writing of the defendant, grant a new trial for any cause for which by law a new trial may be granted, or if it appears to the court that justice has not been or cannot be done, and upon such terms or conditions as the court shall order. Said court may grant a new trial at any time after said year, if it finds that the certification required to be made of the transcript of the evidence in a case tried under sections thirty-three A to thirty-three G, inclusive, cannot be had within two years after such case is tried and that the defendant or his counsel has seasonably performed all acts necessary under said sections towards the perfection of his appeal.

Section 2. Chapter two hundred and seventy-eight of the General Laws is hereby further amended by inserting after section twenty-nine A the following section twenty-nine B:

Section 29B. If it appears to the superior court that justice has not been done or cannot be done, it may within sixty days after a sentence has been imposed, upon such terms and conditions as it shall order revise or revoke any sentence imposed; if such sentence was imposed without trial after a plea of guilty or nolo contendere the court may in the event of such revocation permit the withdrawal of the plea upon which the sentence was imposed.

APPENDIX III

AN ACT TO EXTEND THE POWER OF THE SUPREME JUDICIAL
COURT TO REVIEW CAPITAL CASES

Be it enacted, etc.

Section 1. Chapter two hundred and seventy-eight of the General Laws is hereby amended by striking out the second paragraph of section thirty-three E, as most recently amended by Acts of nineteen hundred and thirty-nine, chapter three hundred and forty-one, and inserting in place thereof the following new second paragraph:

“In a capital case as hereinafter defined the entry in the supreme judicial court shall transfer to that court the whole case for its consideration of law and the evidence; upon such consideration the court may: (a) order a new trial; (b) direct the entry of a verdict of a lesser degree of guilt, and remand the case to the superior court for the imposition of sentence; or (c) direct the entry of a verdict of not guilty by reason of insanity, and remand the case to the superior court for an order under the provisions of chapter one hundred and twenty-three, section one hundred and one. The court may make such orders if satisfied that the verdict was against the law or the weight of the evidence, or because of newly discovered evidence, or for any other reason that justice may require. For the purpose of such review a capital case shall mean a case in which the defendant was tried on an indictment for murder in the first degree and was convicted of murder either in the first or second degree. After the entry of the appeal in a capital case and until the filing of the rescript by the supreme judicial court motions for a new trial shall be presented to that court and shall be dealt with by the full court, which may itself hear and determine such motions or remit the same to the trial judge for hearing and determination. If a motion is so remitted, or if any motion is filed in the superior court after rescript, no appeal shall lie from the decision of that court upon such motion unless the appeal is allowed by a single justice of the supreme judicial court on the ground that it presents a new and substantial question which ought to be determined by the full court.

Section 2. Chapter one hundred and twenty-three of the General Laws is hereby amended by inserting in section one hundred and one after the words “by reason of insanity” in the second line thereof, the words “or in a capital case as defined in section thirty-three E of chapter two hundred and seventy-eight, by an order of the supreme judicial court under that section directing the entry of a verdict of not guilty by reason of insanity,” so that section one hundred and one shall read as follows:

Section 101. If a person indicted for murder or manslaughter is acquitted by the jury by reason of insanity, or in a capital case as defined in section thirty-three E of chapter two hundred and seventy-eight by an order of the supreme judicial court under that section directing the entry of a verdict of not guilty by reason of insanity, the court shall order him committed to a state hospital or to the Bridgewater state hospital during his natural life. The governor, with the advice and consent of the council, may discharge such a person therefrom when he is satisfied after an investigation by the department that such discharge will not cause danger to others.

APPENDIX IV

AN ACT TO AUTHORIZE THE SUPERIOR COURT TO TRANSFER
CERTAIN EQUITY CASES TO A PROBATE COURT

Be it enacted, etc.

Section 1. Chapter two hundred and fourteen of the General Laws is hereby amended by inserting after section thirty-two thereof the following section thirty-two A.

Section 32A. Subject to the conditions set forth hereafter any justice of the superior court may transfer for final disposition in a probate court any proceeding in equity pending in the superior court, except cases arising from labor disputes as defined in section twenty C of chapter one hundred and forty-nine. Upon such transfer the case shall thereafter be subject to statutes and rules regulating procedure in equity in the probate courts.

All such transfers shall be subject to the approval of the chief justice of the superior court, of the administrative committee of the probate courts, and of the judge of the probate court for the county to which the case is to be transferred, if such county has one probate judge, or of a majority of the probate judges if such county has more than one probate judge. Such transfer shall also be limited to a probate court for a county in which the case could have been brought originally.

APPENDIX V

AN ACT TO INCREASE THE REIMBURSEMENT FOR
SERVICES RENDERED IN COUNTIES OTHER THAN THOSE
FOR WHICH STENOGRAPHER IS APPOINTED

Be it enacted, etc.

Section 1. Chapter two hundred and twenty-one of the General Laws is hereby amended by striking out in the last line of section ninety A as most recently amended by Acts of 1951, chapter eighty-two, the word "twenty" and by inserting in place thereof the word "thirty", so that section ninety A shall read as follows:

Section 90A. When a salaried official stenographer renders service in a county other than the one for which he is appointed, the justice shall allow him his reasonable and actual expenses for transportation, food and lodging, to be paid by the county in which he renders such service. At the conclusion of his assignment he shall send a statement of the dates when he rendered service in such county, attested by the clerk of the court for such county, to the treasurer of such county and also to the treasurer of the county for which he is appointed, whereupon the county in which he renders such service shall pay to the county for which he is appointed thirty dollars for each day's service so rendered.

Section 2. This act shall take effect on

APPENDIX VI

AN ACT TO ABOLISH THE USE OF
APPRAISERS ON PROBATE INVENTORIES

Be it enacted, etc.

Section 1. Chapter one hundred and ninety-five of the General Laws is hereby amended by adding at the end of section five the following sentences:

“Such inventory shall include an estimate of the value of each item by the executor or administrator. In lieu of such inventory he may file a copy certified by him to be true of the inventory filed by him with the commissioner of taxation as required by section twenty-two of chapter sixty-five,” so that section five shall read as follows:

Section 5. Every executor, except one who gives bond under section three of chapter two hundred and five, and every administrator shall, within three months after his appointment, make on oath and return to the probate court a true inventory of the real and personal property of the deceased which at the time of making such inventory has come to his possession or knowledge. Such inventory shall include an estimate of the value of each item by the executor or administrator. In lieu of such inventory he may file a copy certified by him to be true of the inventory filed by him with the commissioner of taxation as required by section twenty-two of chapter sixty-five.

Note to this section. The executor or administrator is given the option to use an old form of probate inventory with his own estimates, or a tax commissioner's inventory, by copy. The latter might disclose taxable property not passing by the probate proceedings, which he might prefer not to become a public record.

The use of such a copy is limited to the inventory filed by the executor or administrator himself and would not apply to an administrator de bonis non, where one had already been filed.

Section 2. Section six of chapter one hundred and ninety-five of the General Laws is hereby repealed.

Section 3. Chapter two hundred and three of the General Laws is hereby amended by striking out section nine thereof and by substituting the following new section nine:

Section 9. In an inventory is required to be returned by a trustee, the estate and effects thereof shall be inventoried and an inventory thereof filed by said trustee in the same manner as provided for inventories by executors or administrators under section five of chapter one hundred and ninety-five.

Note to Section 3. A trustee may under some conditions be obliged to file an inventory with the tax commissioner, e.g., a trustee under an inter vivos trust where the deceased was trustee and beneficiary, or a trustee appointed after decease of a life tenant under a will, who was also trustee.

Section 4. Chapter two hundred and one of the General Laws is hereby amended by striking out section forty-six thereof and inserting in place thereof the following new section forty-six:

Section 46. Upon taking an inventory, the estate and effects therein shall be inventoried and an inventory filed by such guardian or conservator as provided for inventories by executors or administrators under the first and second sentences of section five of chapter one hundred and ninety-five.

Note to Section 4. No reference to a tax commissioner's inventory would be relevant to a guardian or conservator.

Section 5. Section forty-eight of chapter two hundred and fifteen is hereby repealed.

APPENDIX VII

AN ACT RELATIVE TO THE CREATION OF THE OFFICE OF
ASSOCIATE JUSTICE IN CERTAIN DISTRICT COURTS AND THE
ABOLITION OF THE OFFICE OF SPECIAL JUSTICE THEREIN.

Be it enacted, etc.

Section 1. Chapter two hundred and eighteen of the General Laws is hereby amended by inserting after section six the following sections, six A, six B, and six C.

Section 6A. From and after September 1, 1962, as vacancies occur in the office of special justice of district courts in which the presiding justices are required to devote their entire time to their duties under section seventy-seven A of this chapter, such vacancies shall not be filled and such office shall be abolished.

Section 6B. There is hereby created the office of associate justice of the district courts. As vacancies occur from and after September 1, 1962, in the office of special justice in district courts enumerated in section seventy-seven A of this chapter there shall be appointed pursuant to the constitution an associate justice of the district court in which such vacancy shall occur, until the total of the associate justices in such courts shall reach the following numbers:

In the counties of Berkshire, Hampden, Hampshire and Franklin, (3);

In the county of Worcester, (3);

In the county of Middlesex, (5);

In the county of Essex, (3);

In the county of Suffolk, (4);

In the county of Norfolk, (2);

In the counties of Plymouth, Bristol, Barnstable, Nantucket and Dukes County, (2).

At such time as the appointments of associate justices in the counties or groups of counties set forth in the preceding sentence shall reach the numbers specified therein no further appointments to the office within such counties or groups of counties shall thereafter be made except to fill vacancies.

Section 6C. Associate justices of the district courts shall devote their entire time during ordinary business hours to their duties and shall not, directly or indirectly, engage in the practice of law. Such associate justices shall exercise all the powers and be subject to all the duties of a presiding justice, and wherever reference is

made in the General Laws or in any rules of court to a justice or justices it shall be deemed to include associate justices or an associate justice unless otherwise specifically stated or otherwise required by the context. The salary of such associate justice shall be one thousand dollars less than the salary of a presiding justice under General Laws, chapter two hundred and eighteen, section seventy-seven A.

Section 2. Chapter two hundred and eighteen of the General Laws is further amended by adding at the beginning of the first sentence of the second paragraph of section six the following words, "subject to the provisions of section six A of this chapter, and", so that said second paragraph shall read as follows:

"Subject to the provisions of section six A of this chapter and except in the municipal court of the city of Boston, there shall be two special justices in every district court having two justices and one special justice in every other district court. No vacancy in the office of special justice shall be filled unless and until the number of special justices for such court shall be less than the number provided therefor in this section."

APPENDIX VIII

STATISTICS OF THE WORK ACCOMPLISHED
BY THE VARIOUS COURTS

The following statistics set forth the civil and criminal entries in the various courts of the Commonwealth (law and equity) for the years ending June 30, 1961 and 1960.

CIVIL ENTRIES

	1961 5th Report	1960 4th Report
Supreme Judicial Court, law.....	869	885
Supreme Judicial Court, equity.....	82	52
	951	937
Superior Court, law.....	35,351	34,702
Superior Court, equity.....	4,527	4,531
	39,878	39,233
Land Court.....	5,144	4,823
Probate Courts, probate.....	33,156	32,523
Probate Courts, divorce.....	8,237	7,187
Probate Courts, commitments.....	1,419	1,541
	42,812	41,251
Municipal Court of the City of Boston, net after removals.....	21,203	19,669
Municipal Court of the City of Boston, supple- mentary process.....	1,658	1,418
Municipal Court of the City of Boston, small claims.....	1,582	1,468
Municipal Court of the City of Boston, recip- rocal support.....	86	105
	24,529	22,660
District Courts, net after removals.....	75,930	69,619
District Courts, supplementary process.....	29,865	27,992
District Courts, small claims.....	76,565	72,091
District Courts, commitments.....	4,771	5,506
District Courts, reciprocal support.....	1,739	1,706
	188,870	176,914
Total civil entries.....	302,184	285,818

CRIMINAL ENTRIES

	1961 5th Report	1960 4th Report
Superior Court, indictments.....	8,114	8,100
Superior Court, actions on bail bonds.....	47	36
Superior Court, complaints after waiver of indictments.....	34	45
	8,195	8,181
Municipal Court of the City of Boston, general	48,501	48,824
Municipal Court of the City of Boston, in- quests.....	1	1
	48,502	48,825
District Courts, general.....	273,760	263,683
District Courts, inquests.....	21	24
	273,781	263,707
Boston Juvenile Court.....	1,050	1,021
Total criminal entries.....	331,528	321,734

Civil and criminal entries combined totalled 633,712, up 4.3%, and an increase of better than 10% over two years ago. This increase in court business has been more marked in the district courts and the Boston municipal court. In addition the number of parking tickets continued to increase, to 1,328,451. This is 21% over two years ago.

SUPREME JUDICIAL COURT

For the court year ending August 31, 1961, the full bench of the supreme judicial court decided 314 cases. Of this total 53 were rescript opinions and 261 formal opinions. Of the total number of cases decided 25, or 8%, came up on report without decision. In the remaining 289 cases, the decision of the lower court was affirmed in 199 and reversed in 84, and six were modified and affirmed. The percentage of cases argued is about the same this year as last.

Number of cases originating in the various counties follows:

Barnstable.....	3
Berkshire.....	2
Bristol.....	17
Dukes County.....	0
Essex.....	20
Franklin.....	1
Hampden.....	16
Hampshire.....	10
Middlesex.....	50
Nantucket.....	0
Norfolk.....	18
Plymouth.....	10
Suffolk.....	122
Worcester.....	45
TOTAL.....	314

Nineteen criminal appeals are included in this total.

The cases came on appeal from the various courts as follows:

Supreme judicial court, single justice session law.....	12	
Supreme judicial court, single justice session equity.....	4	
		16
Superior court, law.....	172	
Superior court, equity.....	66	
Superior court, workmen's compensation cases.....	17	
		255
Land court.....	4	
Probate courts.....	29	
Municipal and district courts.....	10	
		43
TOTAL.....		314

As stated in Paragraph 48, all cases argued or submitted through June were decided by June 30 despite the fact that the court operated without its full membership during part of the year. This does not

mean that the cases were less difficult, but that the sitting judges assumed greater burdens. In addition it is not to be overlooked that the single justice session has as usual claimed a considerable portion of the time of the court. The following statistics suggest the possibility that steps should soon be taken to broaden the power of the supreme judicial court to transfer cases from the single justice session to other courts.

SUPREME JUDICIAL COURT SINGLE JUSTICE SESSION FOR THE COUNTY OF SUFFOLK

The following statistics set forth the activities of the single justice session in Suffolk County. Corporate dissolutions increased from approximately 700, a year ago, to about 2,000 this year. Petitions for issuance of extraordinary writs increased in each category and appeals from orders of the Department of Public Utilities also increased noticeably.

REPORT OF CLERK FOR SUFFOLK COUNTY

<i>Transferred to Superior Court</i>	<i>Prerogative Writs</i>	<i>Petitions for Admission to the Bar</i>
13	72	766
<i>Law Docket</i>		
Appeals from decisions of the Appellate Tax Board.....		8
Petitions for Admission to the Bar.....		766
Petitions for Writs of Certiorari.....		7
Petitions for Writs of Error.....		27
Petitions for Writs of Habeas Corpus.....		17
Petitions for Writs of Mandamus.....		19
Reports of Special Commissioners in re "Fraudulent Practices".....		2
Informations by Bar Association (Disciplinary action).....		6
Petition for Writ of Prohibition.....		1
Petition for Writ of Replevin.....		1
Petitions for Discharge under General Laws, chapter 123, section 91 (restoration to sanity).....		6
Petitions to establish truth of exceptions.....		3
Petitions for late entry of appeal under General Laws, chapter 211, section 11.....		2
Petition for late entry of bill of exceptions.....		1
Petitions for stay of execution of sentence.....		2
Petition for reproduction of record other than printing.....		1
Total entries on law docket.....		869
<i>Equity Docket</i>		
Bills of complaint.....		13
Appeals from orders of the department of public utilities, General Laws, chapter 25, section 5.....		21
Petitions for appointment of receiver.....		2
Petitions for declaratory judgment.....		9
Petitions for dissolution under General Laws, chapter 155, section 50 A (about 2,000 corporations).....		6
Petitions for dissolution brought by individuals.....		2
Petitions to establish truth of exceptions.....		2
Petition for leave to distribute assets.....		1
Petition under General Laws, chapter 29, section 63, re unlawful expenditures of departments and officers of the state.....		1

Petitions to revise or reverse decisions of Boards of Registration, General Laws, chapter 112, section 64.....	2	
Petitions under General Laws, chapter 152, section 17 re orders or decisions of reviewing board of W. C. C.....	2	
Petition under General Laws, chapter 204, section 12, re sale of church property.....	1	
Petitions under General Laws, chapter 211, section 11, late entry of exceptions or report.....	4	
Petitions under General Laws, chapter 214, section 22, modification of decree of Superior court.....	13	
Petitions under General Laws, chapter 214, section 32, transfer of causes between Supreme Judicial, Superior and Probate Courts....	2	
Petition under General Laws, chapter 215, section 15, late appeal....	1	
Total entries on equity docket.....		82
Total entries on both dockets.....		951

THE SUPERIOR COURT

The figures reported by the clerks are compiled on the sheet inserted at this point. The total of all law entries has again increased slightly, from 34,702 to 35,351. However, we cannot draw the conclusion that the rate of increase in litigation is slowing down, as the District Court and Boston Municipal Court figures when taken together will show an increase in civil entries of some nine or ten percent.

Equity cases show practically the same number of entries, but there was a small reduction in the number of cases pending at the end of the year.

Criminal volume remains at practically the same level as last year. However, there was a noticeable increase in dispositions, directly related to a similar increase in the number of court days.

The appellate division for the review of sentences under General Laws, chapter 278, section 28A, sat 16 days for the period covered. The details of their cases were as follows:

Appeals pending June 30, 1960.....	35	
Appeals filed.....	354	
Total.....		389
Sentences modified.....	21	
Sentences increased.....	4	
Placed on file.....	3	
Appeals dismissed.....	215	
Appeals withdrawn.....	51	
Pending June 30, 1961.....	95	
Total.....		389

CRIMINAL BUSINESS STATISTICS OF THE SUPERIOR

	Barnstable	Berkshire	Bristol	Dukes
Number remaining at first of the year (7/1/60)	78	261	559	6
Number of indictments returned	84	130	598	4
Number of appeal cases entered	137	147	533	14
Appeals withdrawn before sitting following entry	12	33	34	6
Appeals withdrawn after next sitting under G. L., C. 278, S. 25	6	80	49	0
Appeals withdrawn during sitting*	27	13	200	0
Number of actions on bail bonds for recognizances entered	0	0	0	0
Number disposed of in previous years brought forward for redispotion	8	0	0	0
Indictments waived	23	57	73	0
Number of complaints filed after waiver of indictment . . .	0	0	0	0
Number disposed of during year	218	252	1,008	13
Number remaining at end of year	67	217	472	11
Number of trials during year by superior court justices . .	50	44	210	3
Number awaiting trial at end of year	46	119	332	11
Number of days during which a superior court justice sat for trials, dispositions or redispotions	28	61	99	4

*In Suffolk County, appeals in this category are included in the preceding classification.

COURT FOR THE YEAR ENDING JUNE 30, 1961

Essex	Franklin	Hampden	Hampshire	Middlesex	Nantucket	Norfolk	Plymouth	Suffolk	Worcester	Totals
249	55	452	119	770	0	485	181	1,158	224	4,597
545	36	251	75	1,475	1	705	504	2,804	902	8,114
557	33	223	65	1,167	6	557	477	1,918	479	6,313
37	2	11	2	0	0	52	68	173	24	454
92	17	34	9	264	0	25	63	114	58	811
64	3	40	12	62	0	129	54	0	16	620
0	0	0	0	9	0	0	0	38	0	47
39	0	0	0	106	0	28	135	575	38	929
185	11	51	34	108	0	12	47	164	425	1,190
0	0	8	0	11	0	0	0	0	15	34
1,155	73	592	122	2,676	7	1,090	924	5,287	1,859	15,276
227	40	308	148	646	0	491	235	1,083	126	4,071
199	7	105	43	352	7	318	167	804	267	2,576
213	27	285	35	657	0	474	6	942	121	3,268
126	10	47	21	418	3	129	82	572	163	1,763

PROBATE COURTS

The more important categories of work performed in the probate courts appear on the following pages.

It will be noted that libels for divorce increased about 14.6% over those of a year ago, but it must be remembered that because of the so-called "cooling-off" statute, General Laws, chapter 208, section 6B, effective January 1, 1959, libels decreased some 15.6% in 1960 compared to the total for the previous year.

Letters of administration, probate of wills, adoptions and petitions for separate support all increased this year.

CIVIL BUSINESS STATISTICS — SUPERIOR COURT FOR THE YEAR ENDING JUNE 30, 1961, AS REPORTED BY CLERKS OF SAID COURT

NOTE: Divorce and Nullity cases in Superior Court totalled 44. Eight of the fourteen counties had none. Hampshire County handled 35 and disposed of 19. The nine remaining cases were docketed in Essex, Franklin, Middlesex, Norfolk and Suffolk Counties.

EXTRACTS FROM THE REPORTS OF THE REGISTERS OF

	Barnstable	Berkshire	Bristol	Dukes
Original entries	673	910	2,223	94
Administrations allowed	181	328	724	31
Wills allowed	296	281	664	40
Guardians appointed	45	89	112	3
Conservators appointed	19	51	72	0
Trustees appointed	27	49	60	4
Partitions	7	9	12	1
Separate support	6	28	117	0
Desertion and living apart	4	17	12	0
Custody	1	13	9	0
Divorcee				
Original entries	175	239	659	15
Decrees nisi	102	167	500	15
Other decrees and orders	20	66	306	14
Commitments of mentally ill and feeble minded	0	2	2	0
Adoptions	47	76	116	0

PROBATE FOR THE YEAR ENDING DECEMBER 31, 1960

Essex	Franklin	Hampden	Hampshire	Middlesex	Nantucket	Norfolk	Plymouth	Suffolk	Worcester	Totals
3,689	420	2,291	577	7,319	40	3,464	1,827	5,403	4,226	33,156
1,257	108	812	194	2,561	13	1,087	658	2,265	1,348	11,567
1,067	147	609	187	2,093	20	1,052	510	1,151	1,069	9,186
223	22	180	27	437	0	185	145	348	246	2,062
150	40	104	35	218	0	137	64	256	166	1,312
177	18	90	14	326	2	215	71	172	228	1,453
10	1	15	2	24	0	8	8	27	18	142
79	2	71	5	229	0	109	99	1,559	174	2,478
11	0	0	3	13	0	3	16	11	11	101
19	8	3	3	19	1	27	17	78	2	200
658	85	1,048	157	1,644	9	595	476	1,611	866	8,237
526	69	662	110	1,184	8	366	310	1,100	647	5,766
297	45	1,364	206	1,751	0	851	606	2,548	581	8,655
8	1	16	2	8	0	2	1	1,362	15	1,419
256	33	195	44	628	2	285	118	449	282	2,531

LAND COURT

Reported below is a summary of the details of the work of the land court covering the period from July 1, 1960, to June 30, 1961.

A slight increase in the total number of cases entered as well as in the total number disposed of will be noted. Equity entries increased about 13% over last year.

CASES ENTERED

Land registration.....	744	
Land confirmation.....	24	
Land registration, subsequent.....	989	
Tax lien.....	942	
Miscellaneous.....	196	
Equity.....	<u>2,249</u>	
Total cases entered.....		5,144
Decree plans made.....	729	
Subdivision plans made.....	<u>1,090</u>	
Total plans made.....		1,819
Assurance Fund June 30, 1961.....		\$ 417,888.24
Assessed value of land on petitions in registration and confirmation cases entered.....		\$9,276,118.47

CASES DISPOSED OF BY FINAL ORDER,
DECREE OR JUDGMENT

Land registration.....	980	
Land confirmation.....	20	
Land registration, subsequent.....	989	
Tax lien.....	969	
Equity and miscellaneous.....	<u>1,889</u>	
Total cases disposed of.....		4,847

MUNICIPAL COURT OF THE CITY OF BOSTON

The following statistics show an increase of nearly 8% in net entries of civil cases. However, most of the increase was in contract actions in which there was a high percentage of defaults. Cases reaching trial actually decreased slightly. The criminal business was about the same as in the previous year. The number of parking tags continued to increase. Collections under the uniform reciprocal support act increased slightly.

CRIMINAL

Automobile violations.....	1,499	
Parking violations.....	28,284	
Domestic relations.....	279	
Drunkenness in Court.....	7,067	
Drunkenness released by probation officer.....	5,735	
Other criminal cases.....	5,324	
Inquest entered.....	1	
Search warrants issued.....	312	
Total.....		48,501

DISPOSITIONS:

Pleas of guilty.....	25,892
Pleas of not guilty.....	2,642
Placed on file, dismissed, etc.....	7,906
Not arrested, pending for trial or sentence.....	5,119
Defendants acquitted.....	819
Bound over to Grand Jury.....	1,063
Defendants placed on probation (not including surrenders).....	3,766
Defendants fined.....	19,996
Imprisonments.....	2,953
Fines appealed.....	111
Imprisonments appealed.....	399

NON-CRIMINAL PARKING LAW:

Parking tags returned by violators.....	336,159
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FINANCES:

Received from parking tag office.....	\$306,688.22	
Received from court fines, fees, forfeitures, etc.....	96,454.80	
Total received and turned over to Commonwealth and City of Boston.....	\$403,143.02	
Received as bail by court.....	68,400.00	
Total receipts of the court.....		\$471,543.02

CIVIL

	<i>Contract</i>	<i>Tort</i>	<i>Contract or Tort</i>	<i>All Others</i>	<i>Total</i>
Actions entered.....	14,664	6,357	320	704	2,045
Actions removed to superior court.....	197	620	24	1	842
Net entries after removals	14,467	5,737	296	703	21,203
Actions defaulted.....	9,121	998	23	270	10,412
Trials*.....	922	1,861	26	220	3,029
Plaintiff's findings**.....	769	1,040	0	130	1,939
Defendant's findings**...	91	443	5	94	633
<i>Appellate Division</i>					
Reports allowed.....	15	5	1	1	22
Reports disallowed.....	6	8	0	0	14
Cases heard.....	10	6	2	0	18
Cases affirmed**.....	6	6	0	1	13
Cases reversed**.....	2	1	0	0	3
Cases consolidated under G.L., C.223, s. 2.....	5	68	2	0	75
Appeals to supreme judi- cial court perfected....	3	4	2	0	9
Appeals to supreme judi- cial court affirmed.....	1	0	0	0	1
Appeals to supreme judi- cial court reversed.....	0	2	1	0	3
Plaintiff's judgments total, viz.:					
By default.....	9,753	275	0	222	10,250
After trial.....	769	1,040	0	130	1,939
By agreement.....	856	3,099	0	5	3,960
Defendant's judgments total, viz.:					
By non-suit.....	13	120	2	1	136
After trial.....	91	443	5	94	633
By agreement.....	10	10	1	0	21
Neither party agreement.	226	185	2	1	414
Amount of plaintiffs' judgments.....	\$3,437,876.19	\$1,147,455.40	0	\$963.50	\$4,586,295.09
Average of plaintiffs' judgments.....	\$302.15	\$259.96	0	\$2.07	\$284.00

*(563 remanded cases included in total tried.)

** (Some cases are heard before the reporting period and decided during it and some are heard during the reporting period and decided during it.)

THE DISTRICT COURTS

The following sheet will show in detail the work of the District Courts throughout the state. We recommend to the Bar a close study of these figures.

It is to be noted that while the volume of uniform reciprocal support cases remains nearly constant, the amount collected again shows a substantial increase.

Original civil entries increased markedly, and removals continue at almost the same ratio, approximately six per cent of the entries. Criminal entries also show a slight increase. A pleasanter aspect is a slight decline in the number of juvenile cases—hardly enough, however, to be of any significance.

We have mentioned the remand cases in the body of the report. Column 26, showing all dispositions of these cases in our District Courts as 5,042, is also worth noting. After deducting the 544 cases retransferred to the Superior Court, this indicates practically 4,500 finally ended in the District Courts, either by trial or settlement or other form of final disposition.

BOSTON JUVENILE COURT

The following statistics indicate a continuing increase in the total number of all complaints, although it is gratifying to note a slight decrease in the total number of children involved in complaints relating to care and protection.

BOSTON JUVENILE COURT
July 1, 1960-June 30, 1961

COMPLAINTS:

	<i>Boys</i>	<i>Girls</i>	<i>Totals</i>
Juvenile Criminal.....	5	0	5
Delinquent.....	729	262	991
Wayward.....	0	2	2
Totals.....	734	264	998

	<i>Men</i>	<i>Women</i>	<i>Totals</i>
Adults.....	21	16	37

	<i>No. of Complaints</i>	<i>No. of Children Represented</i>
Children in need of care and protection.....	15	25

TOTAL NUMBER OF ALL COMPLAINTS:

Juvenile.....	998
Adult.....	37
Children in need of care and protection.....	15
Total.....	1,050

Active as of June 30, 1961:

	<i>Individuals</i>	<i>Complaints</i>
JUVENILES:		
Boys.....	221	244
Girls.....	96	96
Totals.....	317	340
ADULTS:		
Men.....	28	31
Women.....	27	27
Totals.....	55	58
CHILDREN IN NEED OF CARE AND PROTECTION...	65	30
TOTALS (Active as of June 30, 1961).....	437	428

NUMBER OF CASES:

Juveniles.....	340
Adults.....	58
Complaints of children in need of care and protection.....	30
Total.....	428

STATISTICS OF THE DISTRICT COURTS OF MASSACHUSETTS FOR THE YEAR ENDING JUNE 30, 1961 AS REPORTED BY THE CLERKS OF SAID COURTS

Compiled by the Administrative Committee of District Courts

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	
DISTRICT COURTS arranged in accordance with 1960 CENSUS	Total Civil Writs Entered	Trials less Summary Process (Exclusions)	Summary Process Entered (Included in column 1)	Summary Process Tried	All Removals	Reported to Appellate Divisions	Reported to Supreme Judicial Court	Supplementary Process	Small Claims	Criminal Cases Begun	Criminal Appeals	Drunkenness	Automobile Cases	Operating Under Influence of Intoxicating Liquor	Gaming and/or Lottery Cases	Juvenile Cases	Neglected Children	Parking Tickets Returned	Insane Commitments	Uniform Reciprocal Enforcement of Support Act, G.L., Chap. 273A.			Remand or Transfer Cases Acts 1958, Chapter 369					
																				No. Cases Initiated	No. Cases Received from Other States	Amount of Money Collected	No. Cases Received	Tried	Retransferred to Superior Court after Trial	All Dispositions: Agreements, Trials, Defaults, Non-Suits, Dismissals, Settled, etc.	Pending	
1. Central Worcester	5,267	362	364	87	106	9	0	1,957	4,180	22,342	134	3,431	11,999	196	63	492	41	48,023	834	60	29	71,683.37	1,009	144	96	893	278	*†1.
2. Springfield	4,785	463	283	43	474	3	1	2,180	6,043	19,551	52	3,516	10,309	143	64	453	16	52,617	269	61	50	72,296.19	103	18	10	100	44	†2.
3. East Norfolk, Quincy	4,272	433	223	56	209	2	0	1,171	2,736	6,245	149	1,580	2,816	235	21	320	29	2,655	24	27	7	54,055.42	363	59	34	320	99	†3.
4. 1st East. Middlesex, Malden	4,650	344	238	173	318	9	1	1,385	2,589	8,134	155	1,113	5,898	150	76	316	31	50,697	28	15	13	59,883.66	418	89	47	371	69	†4.
5. 3rd East. Middlesex, Cambridge	4,375	280	357	90	196	4	0	604	1,034	17,295	153	2,252	13,495	157	23	281	35	110,999	107	45	12	49,753.79	273	45	24	205	113	†5.
6. Lowell	3,023	266	322	42	116	1	0	784	3,700	6,797	56	1,696	2,757	160	31	235	17	26,642	21	68	18	69,513.33	166	47	22	144	26	†6.
7. Dorchester	1,998	279	812	273	281	2	0	1,347	2,205	7,189	162	1,528	4,083	103	102	438	22	36,615	1	58	24	60,209.75	222	139	22	209	71	†7.
8. Southern Essex, Lynn	2,884	187	389	81	142	2	0	1,382	2,428	6,332	41	2,410	2,724	181	11	204	14	47,063	6	64	11	53,628.00	91	21	7	126	39	†8.
9. 3rd Bristol, New Bedford	2,380	264	233	30	280	5	0	455	3,437	4,364	101	1,484	972	218	172	284	4	4,127	75	42	23	41,381.29	55	10	8	18	58	†9.
10. 2nd Bristol, Fall River	1,639	91	105	28	72	1	0	315	1,350	3,313	206	1,574	1,970	167	61	210	0	12,272	61	34	0	20,896.00	44	34	7	119	11	†10.
11. Roxbury	3,303	71	2,267	431	74	1	0	1,764	2,081	25,412	307	5,354	14,988	119	241	707	53	133,574	19	136	71	149,979.21	92	18	7	75	47	†11.
12. Lawrence	1,540	152	191	63	106	3	0	163	1,487	4,001	39	1,257	2,204	108	25	167	3	27,610	3	18	14	29,816.14	89	29	4	80	32	†12.
13. West Roxbury	662	46	346	93	41	2	0	885	982	5,606	115	782	3,842	69	38	327	4	23,000	7	27	10	32,520.94	57	16	6	55	20	†13.
14. 4th East. Middlesex, Woburn	1,853	253	60	33	38	2	1	693	1,319	2,175	63	691	1,002	89	9	147	2	2,837	14	9	5	13,820.12	159	41	1	46	196	†14.
15. Northern Norfolk, Dedham	1,528	107	49	13	74	3	0	576	936	1,685	70	414	965	82	17	104	8	8,750	353	11	3	20,355.46	163	40	14	117	74	†15.
16. First Essex, Salem	2,180	147	83	47	159	4	0	428	996	2,776	43	898	1,056	89	10	95	23	13,837	263	27	4	26,393.86	68	10	3	5	71	†16.
17. 2nd East. Middlesex, Waltham	2,035	76	113	35	89	2	1	649	1,398	6,626	117	779	4,893	94	17	160	9	31,840	519	8	7	14,743.69	133	43	22	122	19	†17.
18. Hampshire, Northampton	496	35	3	1	25	0	0	109	1,250	3,512	82	575	2,027	95	9	130	10	6,850	239	10	5	10,551.50	6	0	0	0	26	†18.
19. Brockton	1,675	136	122	40	129	2	0	456	1,483	4,531	100	1,151	1,978	179	12	166	19	13,454	79	33	10	33,042.00	126	16	7	68	81	†19.
20. Somerville	2,539	131	310	90	139	0	0	939	1,265	4,891	28	1,375	2,214	105	39	221	7	24,983	17	9	3	18,819.04	194	26	8	148	74	†20.
21. Newton	1,761	192	54	22	127	0	0	511	1,226	3,787	78	443	3,787	50	18	100	5	24,582	11	7	6	14,602.50	179	23	17	124	96	†21.
22. 1st So. Middlesex, Framingham	1,549	235	82	37	188	0	0	377	1,094	2,734	54	445	1,553	115	0	188	11	242	36	5	10	17,900.30	129	79	20	128	9	†22.
23. 2nd Plymouth, Hingham	1,632	112	80	18	80	0	0	906	1,327	2,139	303	574	728	166	0	177	4	352	30	20	4	30,568.60	76	20	13	80	9	†23.
24. Central Berkshire, Pittsfield	953	67	61	5	28	0	0	783	1,436	4,354	42	678	3,165	94	7	56	0	16,764	0	13	16	17,062.64	82	28	8	69	17	†24.
25. Central Middlesex, Concord	725	75	34	14	19	0	0	189	512	3,386	28	273	2,736	93	7	98	3	2,359	44	2	0	4,699.40	60	11	3	64	7	†25.
26. 1st Bristol, Taunton	812	64	61	15	46	4	2	273	657	2,974	88	221	1,337	79	1	93	1	353	175	33	10	20,681.00	24	8	2	24	3	†26.
27. Chelsea	1,349	211	252	48	117	0	1	688	1,132	4,637	193	1,568	873	136	112	203	20	5,515	38	11	7	18,436.00	199	71	25	192	111	†27.
28. West. Norfolk, Wrentham	893	73	44	13	27	4	0	340	1,044	2,000	128	273	1,202	96	0	95	0	185	255	3	4	8,697.00	59	25	5	55	9	†28.
29. East Boston	847	58	304	72	97	1	0	514	873	6,450	45	545	4,735	39	93	120	16	47,155	22	27	8	17,820.30	90	18	13	77	28	†29.
30. Brighton	716	73	337	189	54	0	0	513	891	6,603	97	692	5,493	30	14	46	0	38,034	0	16	9	20,292.66	38	21	9	42	6	†30.
31. Chicopee	294	21	40	10	27	0	0	85	670	2,485	40	485	1,541	125	7	121	7	4,043	10	16	23	12,676.10	7	0</				

